



**TEXAS PROPERTY TAX
MANUAL FOR THE APPRAISAL
OF AGRICULTURAL LAND**

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

April 1990

Manual for the Appraisal of Agricultural Land



**State Property Tax Board
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PART I.

INTRODUCTION

Until the 1960's, Texas farm and ranch land was taxed on its market value—the price a buyer would pay for it in an ordinary market transaction. As Texas became more urbanized, however, farm and ranch land in many cases increased dramatically in value, especially in developing areas. Even if a farmer or rancher never intended to develop his land, its value increased because it could be developed.

Concerned that taxes could become so high that farmers and ranchers would be forced to abandon agriculture, voters in 1966 approved the first agricultural appraisal law. A constitutional amendment added Section 1-d to Article VIII of the constitution. This section provides that certain kinds of farm land be appraised not at their market value but at their productivity value—a value based solely on the land's capacity to produce agricultural products. In many cases, this amendment substantially reduces taxation of land that qualifies.

Section 1-d is very restrictive. It applies only to land owned by families or individuals. Agriculture must be the owner's primary occupation and primary source of income. In early years, procedures for administering the special appraisal varied widely.

In 1978, voters again amended the constitution, adding a second, more liberal, agricultural appraisal law, Section 1-d-1, that substantially expanded eligibility for productivity appraisal. Corporations as well as individuals may qualify under 1-d-1. The income and occupation tests don't apply, and the new law also applies to timber land. (The State Property Tax Board publishes a separate manual—*Guidelines for the Valuation of Timberland*—describing application, qualification, appraisal, and rollback procedures for timberland.) The new constitutional amendment took effect in 1979. In enacting the Property Tax Code that same year, the legislature adopted Secs. 23.51-23.57, implementing Section 1-d-1.

The Property Tax Code assigns most agricultural appraisal responsibilities to the chief appraiser. However, Sections 23.41 and 23.52 of the Tax Code direct the State Property Tax Board (SPTB) to develop agricultural appraisal manuals for both 1-d and 1-d-1 land and distribute them to appraisal districts. Section 23.52 of the Tax Code also directs the SPTB to develop procedures for verifying that land qualifies for agricultural appraisal.

This manual sets out both appraisal procedures and eligibility requirements. The methods described in the manual are required; appraisal districts are required by law to follow them. Examples and figures are illustrative and not mandatory. This manual has been adopted under the board's rule-making power. A committee composed of the Governor, the Comptroller, the Attorney General, the Agriculture Commissioner, and the Commissioner of

Section 23.41(b), Property Tax Code. Appraisal.

(b) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use.

Section 23.52(d). Appraisal of Qualified Agricultural Land.

(d) The State Property Tax Board by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-

space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The State Property Tax Board by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51 of this code. The rules, before taking effect, must be approved by a majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

the General Land Office has approved it. The manual contains six parts:

- I. Introduction:** an overview of the laws and introduction to the manual
- II. Qualification of Land:** qualification standards and application procedures under the newer Section 1-d-1 laws
- III. Agricultural Appraisal Process:** methods and procedures for appraising land under Section 1-d-1 laws
- IV. Rollback Taxes on 1-d-1 Land:** when land's eligibility ends under the Section 1-d-1 laws, and procedures for calculating a rollback tax
- V. Agricultural Appraisal under Section 1-d:** qualification standards, application, and rollback procedures under the older laws
- VI. Appendices, Figures, and Forms:** Questions and answers, text of the agricultural appraisal laws, description of the owner-operator budget method, an example showing how to develop an agricultural appraisal system, and model forms.

THE AGRICULTURAL APPRAISAL LAWS

The agricultural appraisal laws have a number of popular names. The new Section 1-d-1 laws (Art. VIII, Sec. 1-d-1, Texas Constitution, and Secs. 23.51-23.57, Property Tax Code) are often called "open-space" laws, because the sections use the term "open-space land." They are often also called 1-d-1 laws, after the number of the section of the constitution. Because 95 percent or more of the eligible land in Texas now qualifies under the newer law, this manual emphasizes its procedures and requirements. The older laws are still in effect, and occasionally land does qualify under them. These laws are often called "ag-use" or 1-d laws (Art. VIII, Sec. 1-d, Texas Constitution, and Secs. 23.41-23.46, Property Tax Code). In this manual, when we refer to a procedure under the older law, we will refer to it as 1-d, 1-d agricultural appraisal, or 1-d productivity valuation to distinguish it from the newer 1-d-1 procedures.

The special appraisal technique also has several popular names, including productivity appraisal, special appraisal, and agricultural appraisal. We will use the term agricultural appraisal or productivity valuation throughout the manual.

Several elements are common to both laws:

- A property owner must apply for agricultural appraisal. The owner must file a special form with the appraisal district before the deadline.
- The agricultural appraisal applies only to land, fences, and certain appurtenances. It doesn't apply to improvements or equipment.
- The chief appraiser must act on each application he receives and notify the property owner if he denies the application or needs more information.
- A property owner may appeal denial of agricultural appraisal and a change of use determination to the appraisal review board.
- Land that receives agricultural appraisal is subject to a tax penalty (the "rollback tax") when taken out of agricultural use. Land appraised under 1-d is also subject to a rollback if it is sold or otherwise transferred to a new owner.

There are also some key differences in the two laws:

- 1-d requires the property owner to reapply every year. 1-d-1 requires reapplication only when the property changes ownership or agricultural-use class or when the chief appraiser requires a new application.
- 1-d requires the property owner to be an individual. 1-d-1 allows both individuals and corporations to qualify.

- 1-d requires that agriculture be the owner's primary occupation and principal source of income. The property owner must show that agriculture is conducted for profit. 1-d-1 has no occupation, income, or profit requirements. Instead, it focuses on whether the land is used to the degree of intensity typical in the area for a particular agricultural enterprise.
- 1-d requires that land be devoted principally to agriculture for the three years immediately preceding qualification. 1-d-1 requires devotion principally to agriculture for five of the seven preceding years.
- 1-d requires a rollback tax when the property is taken out of agricultural use or when it is sold. The rollback recaptures taxes for the three preceding years. 1-d-1 requires a rollback tax only when agricultural operations cease or the use changes, and the rollback recaptures taxes for the five preceding years.

The roles of tax officials are the same under both laws.

The chief appraiser:

- creates a land classification system covering each type of agricultural land typical in the district;
- calculates typical net income, based on a variety of sources, for prudently managed agricultural operations;
- determines land use and degree of intensity standards for qualifying land;
- provides applications and acts separately on each agricultural appraisal application;
- determines if and when a change of use occurs and sends notice of the determination to the property owner;
- appraises each property and prepares appraisal records listing information on agricultural property; and
- notifies the property owner of the appraisal district's actions if the Property Tax Code requires it.

The tax assessor:

- calculates taxes on the property;
- delivers tax bills as usual; and
- calculates and delivers a rollback tax bill when the rollback tax becomes due.

Part II.

QUALIFICATION OF LAND UNDER SECTION 1-d-1

The Texas Constitution permits special agricultural appraisal only if land and its owner meet specific requirements defining farm and ranch use. Land won't qualify simply because it is rural or has some connection with agriculture. Neither will it qualify because it is open land that has no other possible use. The law does not guarantee a tax break for everyone who makes a living from the land. Casual uses such as home vegetable gardens do not really constitute agriculture.

Section 23.51 of the Property Tax Code sets the standards for determining whether land qualifies: "Qualified open-space land means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area."

To qualify his land for agricultural appraisal, the property owner must show the chief appraiser that his land meets the Sec. 23.51 standard. To do so, the property owner must apply for the appraisal. The owner must give the chief appraiser all the information he needs to determine whether the land qualifies. The property owner must also inform the chief appraiser of any changes in the status of his land.

Texas Constitution, Article VIII, Section 1-d-1. Open Space Land

(a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm or ranch purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

Section 23.51(1)-(2), (6), Property Tax Code. Definitions.

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preced-

ing seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use.

(6) "Exotic animal" means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant mammals.

This section will explain each eligibility requirement for chief appraisers and property owners. Brief descriptions of each requirement appear below:

- Agricultural appraisal applies to the land and not to other property that may be connected with the land.
- The land must be currently devoted principally to agricultural use.
- The land must be devoted to an agricultural use to the degree of intensity that is typical in an area.
- The land must have been used principally for agriculture or timber production for any five of the preceding seven years.
- Land owned by a foreigner is ineligible for agricultural appraisal. Land inside city limits has more stringent qualification requirements and may be ineligible. Property owners may waive the right to 1-d-1 appraisal.
- Land used as an ecological laboratory may qualify for agricultural appraisal.
- The property owner must file a valid application form.

Each of these seven requirements is discussed in detail below. Appendix A, on page 45, shows how these requirements apply to sample properties.

1-d-1 LAND: Agricultural appraisal applies to the “land” and not to other property that may be connected with the land

Agricultural appraisal applies only to land. It does not apply to improvements on land, minerals, or agricultural products. For example:

Improvements—buildings and structures such as barns, sheds, silos, and other farm out-buildings—must be appraised separately at market value. However, fences are treated as appurtenances and are not appraised separately. Land beneath farm buildings and other agricultural improvements does qualify for the special appraisal because it is used in connection with the agricultural operation.

Minerals—oil, gas, or any hard mineral—must be appraised separately at market value.

Products of the agricultural operation—peaches, cotton, peanuts, grain, cattle, etc.—in the hands of the producer are generally exempt from taxation because of other provisions of Texas law. Farm and ranch equipment designed and used primarily for agriculture—implements of husbandry—are also exempt.

Some man-made alterations of, or additions to, agricultural land are valued as a part of the land. These appurtenances to the land—canals, water wells, roads, stock tanks, and other similar reshaping of the soil—are included in the value of the land and are not separately appraised. Standing timber is real property. Decorative trees, windbreaks, fruit trees, or nut trees are appurtenances to land. Although a water well is an appurtenance, pumps, windmills, and other fixed attachments are valued separately at market value.

The law also states that riparian water rights—the landowner’s right to use natural streams of water adjoining his land—are appurtenances and included in the special appraisal of the land. Statutory water rights, which in the absence of a riparian right require a permit from the Water Commission, are appraised separately at market value. For example, a right granted by permit to divert water from a stream would be valued separately at market value.

AGRICULTURAL USE: Land must be currently devoted principally to agricultural use

Section 23.51(2), Property Tax Code, defines the term “agricultural use” as including the following activities:

- Cultivating the soil.
- Producing crops for human food, animal feed, or planting seed or for the production of fibers.
- Floriculture. Floriculture is the cultivation and management of ornamental and flowering plants.
- Viticulture. Viticulture is the cultivation of grapes.
- Horticulture. Horticulture is the cultivation of fruits, vegetables, flowers, herbs, or other plants.
- Raising or keeping livestock. "Livestock" means a domesticated animal that derives its primary nourishment from vegetation, supplemented as necessary with commercial feed. Livestock includes meat or dairy cattle, horses, goats, swine, poultry, and sheep. Wild animals are not livestock.
- Raising exotic game for commercial use. Exotic game means a cloven-hoofed ruminant mammal that is not native to Texas and is not "livestock." Raising such game may qualify, but must meet the primary use test discussed on page 8.
- Participation in a government program and normal crop rotation. Land left idle to participate in a government program is used for agriculture. Land left idle for crop rotation qualifies until it is left idle for longer than the crop rotation period typical for the crop in the area.

This list is not exhaustive. Production of any commercially valuable livestock, fish, or poultry product probably constitutes agricultural use as well. For example, the Texas Attorney General has ruled that agriculture includes the term "mariculture" and that land used to produce fish and other forms of aquatic life can qualify for an agricultural appraisal. Op. Tex. Att'y Gen. No. JM-87 (1983).

Land used to harvest wood for building uses may qualify in specific circumstances. To qualify, the land must be adjacent to qualified 1-d-1 land owned by the same person. Also, the wood must be used only to build or repair fences or agricultural improvements on the adjacent property.

Some agriculture-related activities that do not qualify land for agricultural appraisal are:

Harvesting native plants or wildlife. Harvesting shrubs that grow wild on the land—mountain laurel, yaupon, etc.—or harvesting or hunting native wild animals such as deer or turkey will not qualify land.

Processing plants or animals. Activities that take place after the crop or animal has been raised and harvested do not qualify land for special appraisal. Activities such as pasteurizing and bottling milk; fermenting grapes and bottling wine; or slaughtering, dressing, and packing meat will not qualify land for agricultural appraisal.

By definition, any activities a non-producer carries out on agricultural products constitute processing. A non-producer cannot qualify property for agricultural valuation. For example, the operator of a grain silo who purchases grain for storage and re-sale cannot receive agricultural valuation for the land the silo occupies.

Under certain circumstances, however, primary producers may also process agricultural products. In these cases, the land devoted to processing activities does not qualify for agricultural valuation. In such cases, the line between production and processing activities can become extremely fine. Chief appraisers must be certain to gather all facts necessary for making an accurate distinction. No hard-and-fast rules clearly distinguish between production and processing. In general, however, an activity must meet at least one of the following standards before it counts as processing:

- Processing begins with those steps typically carried out at the first level of trade beyond production. Storage or packaging for wholesale trade would constitute "processing," as would slaughtering livestock. The producer's interim storage prior to sale to a wholesaler or other middleman would not. Goods in storage would be exempt as farm products in the hands of the producer, and land devoted to storing them would be eligible for agricultural valuation.
- Processing begins when primary agricultural products are broken into smaller parts or combined with other products. Grain, for example, is processed when it is milled.

Milk is processed when it is separated into butter, milk, and other dairy products. Grapes are processed when they are washed, sorted, or crushed. Vegetables and fruits are processed when they are washed and packaged for sale at the wholesale or retail level.

- Processing begins when activities occur that enhance the value of primary agricultural products. Milling grain, pasteurizing milk, and ginning cotton constitute processing. Packaging products for transport to market would not constitute processing, but packaging them for sale would.

Primary Use

According to the statute, land must be devoted principally to an agricultural use. If the land is used for more than one purpose, the most important or primary use must be agriculture. For example, pleasure gardening isn't the principal use of residential land.

Other uses do not prevent land from qualifying if the primary use is agriculture. For example, land used primarily to graze cattle could also be leased for hunting. Leasing land for deer hunting is compatible with a primary use of land for grazing cattle. The appraiser must determine which use is primary. If one of these other uses replaces agriculture as the primary use of land, then the land is no longer principally devoted to agricultural use and cannot qualify for agricultural appraisal. Pages 31 to 33 discuss the effect of changes of use on qualification.

Exotic Game

The primary use test is particularly important for exotic game since only production for food or other commercially valuable products qualifies. Exotic game is defined to include axis deer, nilga antelope, red sheep, and other "cloven-hoofed ruminants" not native to Texas. The owner must raise the game to produce human food or tangible products that have commercial value, such as leather or hides.

Many game ranches also offer recreational hunting as a way of earning income and managing a herd of breeding stock. Because hunting is recreation, an exotic game ranch devoted solely to hunting could never qualify for agricultural appraisal.

A ranch that produces exotic game products and conducts recreational hunts may or may not qualify for special appraisal. Qualification in such a case depends on which use is primary. A chief appraiser should consider all relevant information to determine the primary use. Relevant questions include:

- Are there physical improvements such as high fences to control the herd?
- Are there stocking levels to justify the investment and ensure a reasonable future income?
- Is there a breeding and herd management procedure that emphasizes commercially valuable products (meat or leather) over recreational products (trophy heads)?
- Is there an active business plan showing herd size, harvesting schedules, and harvesting reports?
- Do state or federally approved inspectors supervise slaughter and dressing?

Fish

Chief appraisers should analyze the raising of fish or fish products using the same standards they apply to exotic game. Commercial fish production differs from keeping game fish for purely sporting or recreational purposes. This difference is not necessarily related to the scale of the operation, nor is it related to any intent to produce income or make a profit. Raising fish is a qualified agricultural land use when all the elements of a bulk harvest are present. Taking fish by individual line is clearly a recreational activity.

Horses

Land used primarily to raise or keep horses qualifies for agricultural appraisal. Land used primarily to train, show, or race horses, to ride horses for recreation, or to keep or use horses in some other manner that is not strictly incidental to breeding or raising horses does not qualify. Similarly, land used as a stable, where horses are kept, fed, and cared for, is not being used primarily for an agricultural purpose, unless the stable is incidental to breeding and raising horses.

Current Devotion to Agricultural Use

The land must be “currently devoted” to the agricultural use. The land must qualify on January 1. In the event that agricultural use is not evident on January 1, the chief appraiser should grant productivity valuation if the owner can show evidence that he intends to put the land into agricultural use and that agriculture will be the primary use for the bulk of the calendar year covered by the application.

DEGREE OF INTENSITY TEST: Land must be devoted to an agricultural use to the degree of intensity that is typical in an area

The degree of intensity test measures whether the land is being farmed or ranched to the extent typical for agricultural operations. The previous section described whether a particular use was primarily “agricultural.” To receive a productivity appraisal, however, the land must also be used for an agricultural purpose to the degree of intensity typical in the area. This test is intended to exclude land on which token agricultural use occurs in an effort to obtain tax relief.

The law does not state what degree of intensity qualifies a particular type of land. The chief appraiser must set the standards according to local agricultural practices. Because of the variety of soil types, climatic conditions, and crops in a state as large as Texas, no single statutory definition could cover all possible uses.

Setting Degree of Intensity Standards

The degree of intensity test measures what the owner is putting into his agricultural enterprise—in time, labor, equipment, management, and capital—and compares it with typical levels of these “inputs” for the same type of enterprise in the area generally.

To set degree of intensity standards, the chief appraiser should analyze each type of commodity production in his area. This analysis should break down the typical steps in producing the commodity and attempt to specify how much time, labor, equipment, and so on is typical for each level.

For example, farming dryland cotton requires tilling soil, planting, applying herbicides, and harvesting. Tilling soil requires a certain amount of specific labor and equipment, as do each of the other steps. The chief appraiser should try to determine the typical minimum levels involved for each step.

Similarly, raising beef cattle requires fences, proper management of land for long-run forage, enough animal units to match the land’s carrying capacity, and a herd management procedure to get the animals to market. What kind of fencing is typical? How frequently is it maintained? How many animal units are typically carried? Degree of intensity specifications address these levels of input in detail for each step of the enterprise.

Degree of intensity standards will vary from one type of agricultural operation to another. In most cases, property owners must prove that they are following all the common production steps for their type of operation and putting in typical amounts of labor, management, and investment. However, an operation is not disqualified simply because it differs from the typical operation. Appraisers should not, for example, disqualify a labor intensive farm because most comparable operations are capital intensive. The total effort finally determines whether a given agricultural operation qualifies, not the level of each separate “input.”

Defining an Area

The chief appraiser’s decision on what constitutes an “area” will define “typical” agricultural intensity. The size of the area can vary with the commodity. For a common crop, the chief appraiser may be able to look to farming practices within the county. Rarer crops may require the chief appraiser to consider a multi-county region to decide the typical agricultural inputs. Finally, where the landowner applies different practices than are typical, the chief appraiser should be careful not to discourage experimentation or innovation. The agricultu-

ral appraisal laws should not be interpreted to discourage innovations in agricultural production.

TIME PERIOD TEST: The land must have been used principally for an agricultural use or timber production for any five of the preceding seven years

The five out of seven years' use requirement is self-explanatory. Use principally for agriculture in any five of these seven years qualifies land for agricultural appraisal. A property owner can also point to a history of timber production in meeting the five-year test. Land used primarily for either timber or agricultural production during any five of the previous seven years may qualify.

As long as agriculture was the principal use in the preceding years, the land qualifies even if that use did not meet the degree of intensity requirement in all or some of those years. *Reiss v. Williamson County Appraisal District*, 735 S.W.2d 633 (Tex.App.—Austin, 1987 writ denied).

INELIGIBILITY: Some land is automatically ineligible for qualification under 1-d-1

Even if land meets all the preceding conditions, two situations may block approval of an application. These situations are discussed in detail below.

Land Located Within the Boundaries of a City or Town

Land within the boundaries of a city often will not qualify. Land located within an incorporated city or town must meet the criteria applicable to all land and must meet one of the following:

- the city must not provide the land with general services comparable to those provided in other parts of the municipality having similar features and population; or
- the land must have been devoted principally to agricultural use continuously for the preceding five years.

Section 23.56, Property Tax Code. Land Ineligible for Appraisal as Open-Space Land.

Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or

(B) the land has been devoted principally to agricultu-

ral use continuously for the preceding five years;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

Land Owned by a Non-Resident Alien or Foreign Government

Some kinds of foreign ownership disqualify land. If the property owner is a non-resident alien (a non-U.S. citizen who does not reside in the U.S.), the land can't qualify.

Similarly, a corporation can't qualify its land if non-resident aliens, foreign governments, or both control the corporation. These owners are required by federal law to report ownership or transfers of agricultural land. Sec. 23.56(2) and (3), Property Tax Code, bars these owners from qualifying.

The registration law also applies to resident aliens who leave the country and to land that is put to agricultural use after the alien acquires it.

Registration is required by federal law—the Agricultural Foreign Investment Disclosure Act of 1978. The information is used to prepare reports to Congress and the President on the effect of foreign holdings upon family farms and rural communities.

Tax assessors and chief appraisers can obtain copies of Foreign Investment Disclosure reports from the Agricultural Stabilization and Conservation Service office. All acreage under the same ownership in one county is reported on one form. No additional federal filing is necessary until a later change of ownership or use occurs. An example of the federal foreign investment disclosure form is found in Appendix F, Form 8.

Land on Which 1-d-1 Appraisal is Waived

An owner may waive his right to 1-d-1 appraisal. A 1-d-1 waiver is effective for 25 years and applies to the land even if ownership changes. Owners may file a waiver even if the land does not qualify for 1-d-1 appraisal. Waivers may be filed with some or all of the units that tax the property.

A waiver filed before May 1 becomes effective when it is filed. For good cause, the chief appraiser may extend the May 1 deadline for 60 days. Waivers filed after the deadline become effective the year following the filing year.

To revoke a waiver, the owner must file an application for revocation with the governing body of each taxing unit where the waiver is effective. The unit's governing body must vote to approve the revocation and make a finding that the revocation will not affect any of the unit's debt obligations.

The Water Commission is authorized to make rules ensuring that waivers submitted to conservation and reclamation districts are properly and timely executed and are irrevocable. The State Highways and Public Transportation Commission has authority to make the same rules for waivers submitted to road utility districts within the commission's jurisdiction. Commissioners courts have this authority for waivers submitted to road districts created by the commissioners court.

Section 23.20, Property Tax Code. Waiver of Special Appraisal.

(a) An owner of real property may in writing waive the right to special appraisal provided by Subchapter C, D, E, F, or G of this chapter as to one or more taxing units designated in the waiver. In a tax year in which a waiver is in effect, the property is appraised for each taxing unit to which the waiver applies at the value determined under Subchapter A of this chapter or the value determined under Subchapter C, D, E, F, or G of this chapter, whichever is the greater value.

(b) A waiver may be submitted with an application for appraisal under Subchapter C, D, E, F, or G of this chapter

or at any other time. A property owner who has waived special appraisal under this section as to one or more taxing units may make additional waivers under this section as to other taxing units in which the property is located.

(c) A waiver under this section is effective for 25 consecutive tax years beginning on the first tax year in which the waiver is effective without regard to whether the property is subject to appraisal under Subchapter C, D, E, F, or G of this chapter. To be effective in the year in which the waiver is executed, it must be filed before May 1 of that year with the chief appraiser of the appraisal

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ECOLOGICAL LABORATORIES: Land used as an ecological laboratory may qualify for agricultural appraisal

Land used principally as an ecological laboratory by colleges or universities may qualify for agricultural appraisal. The property owner must follow the same application procedures required to qualify other 1-d-1 land. The land must be principally used as an ecological laboratory. In determining use, appraisers should apply the same principles they use to identify the primary use of agricultural land (page 8). A model application for ecological labs is included in Appendix F, Form 3.

APPLICATION: A property owner must file a valid application form

To be valid, the application for agricultural valuation must be on a form provided by the appraisal district and adopted by the State Property Tax Board. The SPTB application form appears in Appendix F at the end of this manual (Form 2).

The appraisal district may copy the SPTB form and offer it for use by local property owners. SPTB rules allow appraisal districts to use a form that varies somewhat in format and wording from the SPTB form, but the district's form must contain the same elements and ask for the same information as the SPTB form. The rules do not permit appraisal districts to add additional questions to the initial application. If, however, the initial application does not contain all the information the district needs in order to rule on a particular application, the chief appraiser can require the applicant to supply additional information. This procedure is described later in this section.

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district in which the property is located, unless for good cause shown the chief appraiser extends the filing deadline for not more than 60 days. An application filed after the year's deadline takes effect in the next tax year.

(d) A waiver filed under this section is applicable to the property for the term of the waiver, runs with the land, and is binding on the owner who executed the waiver and any successor in interest. A waiver may not be revoked as to any taxing unit except on approval by official action of the governing body of the taxing unit on a finding by the governing body that the revocation of the waiver would not materially impair the contractual, bond, or other debt obligation of the taxing unit wholly or partly payable from property taxes to which the property is subject. An application for revocation must be filed with the governing body of each taxing unit to which the revocation is to apply. A waiver may not be revoked if revocation is prohibited under a rule adopted under Subsection (e) of this section. The revocation is effective in the year in which the governing body approves the revocation if the chief appraiser receives a written notice of the approval before the appraisal review board approves the appraisal records. If the notice is not received before the deadline the revocation takes effect in the next tax year.

(e) The Texas Water Commission, a commissioners court, and the State Highway and Public Transportation

Commission each, by rule, may ensure that a waiver under this section is properly and timely executed, and is irrevocable by the owner of the property to which the waiver applies or by any other related person receiving or proposing to receive, directly or indirectly, the proceeds of any bonds issued by or to be issued by the taxing unit. The rules of the water commission apply to waivers applicable to taxing units that are conservation and reclamation districts subject to the jurisdiction of the commission. The rules of the commissioners court apply to waivers applicable to taxing units that are road districts created by the commissioners court. The rules of the highway and public transportation commission apply to waivers applicable to taxing units that are road utility districts subject to the jurisdiction of the commission.

(f) For computations required to be made under this title, the appraised value of the property for taxation by a taxing unit to which a waiver applies is the value at which the property is taxed under this section.

(g) A waiver of a special appraisal of property under Subchapter C, D, E, F, or G of this chapter does not constitute a change of use of the property or diversion of the property to another use for purposes of the imposition of additional taxes under any of those subchapters.

Sec. 23.21. Waiver of Special Appraisal.

This section is substantially similar to Sec. 23.20.

Where the district offers its own form, the applicant may choose between the SPTB application form and the district's form. The applicant must completely provide all information that is requested on the SPTB form.

Landowners must file applications with the chief appraiser in the appraisal district where the land is located. Taxpayers whose land is appraised by more than one appraisal district must file an application in each district.

A property owner may file a single application form covering all tracts within an appraisal district. He does not have to file a separate form for each tract so long as he provides sufficient information to show that all tracts qualify under the law.

The chief appraiser should encourage the owner to file a single form if the owner is farming or ranching several tracts as a unit. The chief appraiser must view the entire agricultural operation as a unit—not with respect to the activities on each individual parcel. The single application form notifies the appraisal district of the unity of operation.

Other issues about the application process

Filing Deadline

The deadline for applications is "before May 1," meaning the application form must be postmarked or filed no later than midnight April 30. For good cause and only on the property owner's request, the chief appraiser may extend the filing deadline in individual cases for not more than 60 days. An extension should be granted in writing and must be requested before the May 1 deadline.

The Property Tax Code does not define "good cause." However, it is commonly something the applicant can't control. Being sick or injured and not able to transact normal business for a period that effectively prevents filing on time is usually good cause. Being out of town on business or vacation or simply forgetting about the filing deadline is never enough.

Late Applications

Even if he misses the deadline, the property owner can file a late application until the appraisal review board approves records for that year (usually about July 20). However, there is a penalty for late application. An application filed after April 30 is subject to a penalty equal to 10 percent of the difference between the tax if imposed at market value and the tax imposed at the agricultural productivity value. If the chief appraiser extended the deadline for that property owner, this penalty does not apply.

The chief appraiser must note the penalty in the appraisal records. He must also send the property owner written notice of the penalty explaining the reasons. A sample form for this notice appears as Form 6 in Appendix F. The tax assessor of the taxing unit adds the penalty amount to the tax bill and collects the penalty along with the annual tax payment.

A lien attaches to the property until the penalty is paid. If the penalty remains unpaid on February 1 of the following year (or a later delinquency date if tax bills are mailed late), penalty and interest on the penalty amount accrue as if it were a delinquent tax.

Failure to File the Application Form

If a person does not file a valid application before the appraisal review board approves the appraisal roll, the land is ineligible for an agricultural appraisal in that tax year.

One-Time Application

Once the application is filed and approved under 1-d-1 requirements, the land continues to receive agricultural appraisal every year without a new application unless the ownership changes, the land's eligibility changes, or the chief appraiser requires a new application. If the chief appraiser requires a new application, the property owner must meet the deadlines that apply to a new applicant.

Notification of Changes

If the land's ownership, eligibility, or use-type changes, the property owner must notify the appraisal office in writing before the next May 1. If the owner fails to do so, one or more penalties will apply. The SPTB form for notice of use changes appears as Form 5, Appen-

dix F.

If the land remains under the same ownership and the owner fails to inform the appraisal district that he has converted it from one qualifying agricultural use to a second qualifying use, the property owner must pay a penalty equal to 10 percent of the difference between the taxes imposed under the prior use-type and the taxes that would have been imposed under the new use-type. This penalty applies for each year the property received the incorrect agricultural valuation, but for no more than 10 years.

If the property erroneously receives agricultural appraisal because a new owner failed to file his own application or because an owner's use of the land no longer qualifies, the chief appraiser must calculate the difference between the land's market value and its agricultural value. The owner must pay taxes and penalties on the difference between these values for the time that the land erroneously received agricultural appraisal. He must also pay a 10 percent penalty on these taxes. This additional tax and penalty may not cover a time period exceeding 10 years. In the year he discovers the change, the chief appraiser should add this value to the appraisal roll as property omitted in a prior year.

For example, if a farmer reduces the scale of his operations and no longer meets the degree of intensity requirements, his land will not be eligible for agricultural appraisal. If the landowner fails to notify the appraisal district and therefore receives agricultural appraisal, the land is back-assessed. For each year in question (not to exceed ten years), the owner must pay the difference between the taxes based on agricultural valuation and the taxes based on market value. He must also pay the 10 percent penalty on that difference. Since the land has not been taken completely out of agricultural use, it is not subject to rollback taxes.

When a penalty is imposed, the chief appraiser must notify the property owner (see Appendix F, Form 6). This notice must include a brief explanation of the procedures for protesting the penalty. The chief appraiser notes the penalty in the appraisal records, and the tax assessor adds the penalty to the property's annual tax bill.

Chief Appraiser's Action

The chief appraiser must review each application and decide whether to:

- approve it and grant agricultural appraisal;
- disapprove it and ask for more information; or
- deny the application.

The chief appraiser must determine the validity of all timely filed applications before he turns all appraisal records over to the district's appraisal review board. The deadline is May 15 or as soon afterward as is practicable.

The chief appraiser usually gives the appraisal records to the appraisal review board (ARB) by May 15. The ARB spends about two months reviewing them, including a review to make sure that all applications for agricultural appraisal have been correctly granted. Property owners who were denied agricultural appraisal may file a protest with this board. Taxing units that believe special appraisal was erroneously granted to any property owner may seek to remove that grant by filing a challenge with the review board.

The chief appraiser must rule on all late-filed applications before the appraisal review board approves the records for the year. If he denies the application, he must notify the applicant, in writing, within five days. This notice must explain the reasons for the denial and the procedures for protesting it. The applicant has 10 days from the date the notice is mailed to file a protest with the ARB.

Additional Information

If the initial application form does not contain all the information needed to determine whether property qualifies, the chief appraiser may request additional information. The chief appraiser may request only additional information that is necessary to determine whether the land qualifies for 1-d-1 appraisal.

Information contained in income statements, income tax returns, land lease rates, and lease agreements is not necessary to determine whether the land qualifies. If the chief appraiser asks an owner for this type of information, the request should clearly state that the owner is not required to give the information to qualify for 1-d-1 appraisal.

The applicant must provide additional information within 30 days after the date of the

request or his application will be denied.

If there is good cause, the chief appraiser may extend the deadline to allow additional information. An extension cannot exceed 15 days (see Appendix F, Form 7).

When an Application is Denied

If a chief appraiser denies an application, he must deliver a notice of the denial to the applicant within five days of the denial. The notice must contain a brief explanation of the procedures for protesting to the appraisal review board.

A SUMMARY OF THE 1-d-1 APPLICATION PROCESS

The property owner must file a completed application to qualify his land for agricultural appraisal.

- An application must be filed in every appraisal district where the owner's property is located.
- Where the applicant owns several parcels of property within one appraisal district, he may file a single application form covering all the parcels. The deadline for filing an application form is April 30.
- The chief appraiser may extend the deadline 60 days. The applicant must request an extension and must show good cause for extending his deadline.
- Good cause is generally a reason not within the applicant's control that prevents timely filing.
- Late applications may be filed any time before the appraisal review board approves records for that year. Late applications are subject to a penalty.
- Failure to file an application before the records are approved for the year makes the land ineligible for agricultural appraisal in that tax year.
- After the land is approved for agricultural appraisal, no other applications are necessary unless the chief appraiser requests one or changes occur in the status of the property.
- Change of use, change in the class of use, and change of ownership require a new application.
- If the land is taken entirely out of agricultural use, the land is ineligible for agricultural appraisal.
- If the property erroneously receives agricultural appraisal, it is subject to "back assessment" and a penalty.
- Failure to notify the appraisal district of a change in agricultural use subjects the property to a penalty, but not a "back-assessment."

When the chief appraiser receives an application he must review it and take one of the following three actions: he may approve it; he may ask for additional information; or he may deny the application.

- The chief appraiser must approve or deny all timely-filed applications before May 15.
- The chief appraiser must notify the applicant, in writing, of his denial of an application and explain his reasons for denial.

Sec. 23.54, Property Tax Code. Application.

(a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office and prescribed by the State Property Tax Board; and

(2) contain the information necessary to determine the validity of the claim.

(c) The State Property Tax Board shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The board, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the im-

position of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility has ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

Sec. 23.541. Late Application for Appraisal as Agricultural Land.

(a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Section 23.57. Action on Applications.

(a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional

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information from the applicant in support of the claim; or
(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of

each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action and a full explanation of the reasons for denial of the application.

Part III.

AGRICULTURAL APPRAISAL PROCESS

Rural land's market value is typically the cash or cash equivalent price at which land would sell from a willing seller to a willing buyer in an arm's-length transaction. Three different factors influence land's value:

Production. Buyers and sellers in the production market are interested in the land's ability to produce agricultural income.

Investment. Buyers and sellers in the investment market are primarily interested in land's potential appreciation in value. A buyer purchases the land in order to resell or develop it.

Consumption. Those in the consumption market are primarily interested in the satisfaction of owning land. A buyer purchases the land for a weekend home, for a hobby farm, or simply for the pride of ownership.

The price land could command in any or all of these markets influences its market value. The agricultural use value of land arises only from its agricultural production.

In estimating productivity value, the appraiser considers only those factors associated with the land's capacity to produce marketable agricultural products. The appraiser ignores the possibility that the land may command a higher price on the investment or consumption market. Neither of these market influences can be considered.

A market value appraisal of rural land might consider all three approaches to value—cost, market, and income. A productivity appraisal, however, uses only a modified income approach and converts an estimate of the property's income into an estimate of the property's value. The appraiser first estimates the property's annual income, then divides the income by a capitalization rate. The result is an estimate of the property's value.

Full income-approach appraisal can be considerably more complicated than this description, but in productivity appraisal the process is relatively simple because the law sets the capitalization rate and the procedure for projecting income.

By law, the capitalization rate is the greater of 10 percent or the interest rate specified by the Federal Land Bank of Houston plus 2 1/2 percentage points. The capitalization rate is published in **STATEMENT** (the SPTB's monthly news and information bulletin) and provided to the appraisal districts as part of the agricultural information the SPTB distributes each year.

The law requires the appraiser to base the annual income estimate on the five-year period preceding the year before the year of the appraisal. For example, an appraisal in 1988 was based on income from 1986 (two years before the appraisal), 1985, 1984, 1983, and 1982.

The appraiser determines the net income the land would have generated under an average owner of ordinary prudence during each year of the five-year period. The appraiser then averages the annual net income for each of these years. The resulting average, or "net to land," is the amount capitalized in the appraisal.

From a practical standpoint, tax appraisers cannot appraise each individual tract of land. Instead, the appraisal office must develop a system of appraisal that allows the office to value a large number of tracts. To put an effective productivity appraisal system into action, the appraiser must complete five steps:

1. Develop a land classification system. Such a system groups land into principal types of agricultural uses.

In most instances, such a system will recognize at least seven broad agricultural use classes:

- (a) Irrigated cropland
- (b) Dryland cropland
- (c) Orchard
- (d) Improved pastureland
- (e) Native pastureland
- (f) Waste land
- (g) Other land.

Not all counties will have all classes. Some counties may need to add classes. Districts might, for example, need to develop a class for unusual or intensive land uses such as truck farming, egg producing, or commercial poultry production. In many cases, the chief appraiser will need to split broad classes into sub-classes.

2. Estimate the net to land per acre for each class or sub-class. This annual income is based upon the five-year period preceding the year before the appraisal.

3. Divide the class' net to land by the year's capitalization rate to find the value per acre in each class. These values form a productivity appraisal schedule.

4. Classify all qualified agricultural land according to the land classification system.

5. Use the schedule to calculate the productivity value of individual parcels of land. Typically, the productivity value schedule will show a value per acre for each land class. For any given parcel of land, the number of acres times the per acre value determines the agricultural use value.

In addition, the law requires the chief appraiser to estimate and record the market value of property appraised under 1-d and 1-d-1. Thus, the system must also provide for a market value appraisal according to generally accepted methods. The Rural Land section of the *General Appraisal Manual* describes market value appraisal methods for rural land.

SOURCES OF INFORMATION

The chief appraiser is solely responsible for establishing the land classes and determining the average annual "net to land" for each class. To do so, he needs to obtain certain information from state and federal agencies. The following sources can provide information on which to base these determinations, but the chief appraiser bears ultimate responsibility for the land classes and the net to land estimates.

Agricultural Advisory Board

One of the chief appraiser's most important sources of information is the appraisal district's agricultural advisory committee. The committee's purpose is to advise the chief appraiser on the appraisal and use of agricultural land. The chief appraiser is required to appoint, with the advice and consent of the board of directors, an agricultural advisory committee composed of at least three members. Appraisal district employees, appraisal review board members, and members of the board of directors of the appraisal district are ineligible to serve on the committee.

The code requires the advisory committee to meet at least three times per year. Committee members are not entitled to compensation.

One of the three committee members must be a representative of the agricultural

stabilization and conservation service in the county in which the appraisal district is located. The other two members must have been residents of the appraisal district for at least five years and must own property in the appraisal district that is qualified for 1-d, 1-d-1, or 1-d-1 timber appraisal.

Board members serve staggered terms of two years. In making the first round of appointments, the chief appraiser should appoint half the members for one year and half the members for two years. If the committee has an odd number of members, one fewer than a majority of the initial membership should be appointed for one year terms.

The Texas Agricultural Extension Service

Local county extension agents have information on the typical crops in each county, typical yields, production practices, general price, and lease and production cost information.

The Extension Service develops regional budgets for crop and livestock production. These budgets may be helpful in developing the average net to land, but they are general in nature. They may apply to several counties, are projected rather than historical, and are not designed for calculating net to land values. This information is simply another source of data, not the sole basis for net income calculations.

Agricultural Stabilization and Conservation Service (ASCS)

Local ASCS committee members and ASCS staff members have information on crops and crop yields typical for the area. Information on commodity prices, production practices, and government payments is also available from this source.

Soil Conservation Service (SCS)

The SCS has comprehensive information related to the productive capacity of soils. This information is helpful in establishing land classes and sub-classes. In most counties, the SCS can provide detailed soil surveys that will also assist in classifying individual parcels of land. SCS personnel are familiar with typical crops, yields, carrying capacities for livestock, production practices, and typical lease arrangements.

Texas Agricultural Statistical Service

The Texas Agricultural Statistical Service sometimes has publications containing specific information for each county on the number of acres planted and harvested for each crop and on average county yields.

The service computes the average yield per acre, per crop. Its numbers do not break out yields received from richer or poorer land, nor do they reflect other variations that influence yields, such as the level of water application on irrigated lands. Since appraisers must estimate yields based on a prudent, typical operation, they will generally need to supplement the service's estimates with further information.

Information on prices paid for various commodities on a regional or state-wide basis is also available. Again, this information should only be used if the values it shows are typical for the specific area.

Farmers Home Administration (FmHA)

The FmHA is a government agency in the U.S. Department of Agriculture. The local FmHA committees consist of three members, of whom at least two must be farmers. Information on crop yields, production practices, and leasing rates should be available from this committee.

Production Credit Association

Production Credit Associations generally serve fairly large areas but may have information for specific counties. They can provide information about crop yields, production practices, and leasing rates.

Universities and Colleges

Local college and university agriculture departments often have information not available from the above sources.

In addition, the State Property Tax Board distributes an information packet every year containing information about agricultural costs, prices, and yields.

Local agricultural suppliers and producers have information useful to the appraiser. Local lenders who make agricultural loans may also be willing to furnish information useful in determining net to land. The appraiser should also meet with the county U.S.D.A. Rural Development Committee, which includes representatives of the U.S.D.A. agencies operating in the county, to obtain other needed information.

ESTABLISHING LAND CLASSES

Land classes should be based on the district's most common land uses. The Property Tax Code lists some typical classes of land, such as irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste. Unusual or intensive land uses such as truck farming, egg producing, or mass-producing poultry may also require a separate land class. (Although the Code refers to land "categories," this manual follows common usage and designates them land "classes.")

Appraisers must often divide broad classes into sub-classes based on factors that influence productive capacity. A particular land class may include land with different soil types, soil capacity, levels of irrigation, topography, or geographical factors. These differences may affect productivity enough to define sub-classes.

For record-keeping and ease of identification, the simplest way to name each sub-class is to attach a number or letter to the class name. For example, if the class is Irrigated Cropland, and there are four sub-classes based on differences in soil types, each different soil type could be designated as Irrigated Cropland I, Irrigated Cropland II, etc.

From a practical standpoint, appraisal districts cannot develop a classification system that reflects all minor differences in productivity. Appraisers should therefore use common sense in subdividing classes. A few acres of land devoted to a specific use will not define a

Section 23.51(3)-(5), Property Tax Code. Definitions.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste and may be further divided according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received

from hunting or recreational leases. The chief appraiser shall calculate net to land by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in the area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation.

(5) "Income capitalization" means the process of dividing net to land by the capitalization rate to determine the appraised value.

Section 23.53. Capitalization Rate.

The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2-1/2 percentage points, whichever percentage is greater.

class or sub-class. These few acres should be placed in a more typical use-class with the same or similar productivity.

Where available, soil surveys can be extremely helpful in establishing classes and sub-classes. Surveys can reveal the major soil types. Grouping soil types to reflect a reasonable range of productive capacities will limit the number of sub-classes established.

The slope of the land often influences productivity as much as the soil type. The same soil type may have differing productive capacities under different land slope conditions. This is especially true on irrigated cropland. Appraisers must analyze factors and combine them in a classification system. For example, the system might classify a given soil type as Irrigated Cropland I if it has a Class A Slope, but Irrigated Cropland II if it has a Class B Slope.

The appraiser may base sub-classes for pastureland on typical stocking rates or carrying capacity. Some native pastureland, for example, may have a soil type that produces more feed and can support more livestock than the same native pastureland with a different soil type. As is the case with cropland, districts must establish a reasonable grouping of major differences in carrying capacities or stocking rates. The classification system cannot account for minor differences. Appendix D, page 65, demonstrates development of a classification system and values for agricultural land.

DETERMINING NET TO LAND VALUES

Net to land, remember, is the average annual net income that a class of land would be likely to have generated over the five-year base period. Until 1987, appraisers based net to land primarily on owner-operator budgets. The law now requires appraisers to determine net to land using a cash or share lease method.

Under a lease method, net to land is the rent that would be due to the property owner under a cash lease, share lease, or other typical lease arrangement, less expenses typically paid by the owner. In a cash lease, the rent is a fixed amount. In a share lease, the rent is a share of the gross receipts for the year, less a share of certain expenses.

Cash Lease Method

A cash lease (cash rent) is an agreement between landowner and tenant to lease for a fixed cash payment. This payment is usually in terms of dollars per acre for a period of one year. When the landowner leases on a cash basis, he ordinarily has no labor or operating capital costs. If the landowner has no expenses relating to the agricultural use of the land, the cash lease payment is virtually equivalent to a return to the land. If the prudent owner typically does pay some expenses, appraisers should deduct them from the lease payment to determine net to land.

Terms of Lease

The cash lease used for a specific land class should represent the payment to a prudent property owner. In some cases, the most common or typical lease agreement within an area may not be prudent for either the property owner or tenant. This situation may occur when the most common lease agreements are between family members.

The property owner's expenses typically include certain fixed costs such as property taxes, depreciation on irrigation equipment if the property owner also owns the equipment, depreciation of fences and typical structural improvements, and water depletion. Appraisers should calculate property taxes on the basis of agricultural use appraisal rather than market appraisal.

Additional Costs

The property owner also incurs a cost of management, covering such activities as finding a tenant, keeping records, and making sure that the tenant meets the contract agreement. In many cases the cost of management is insignificant when calculated on a per acre basis.

Although the "typical" cash lease landlord has few or no expenses, some leases may re-

quire him to pay additional expenses. Appraisers should adjust these leases to typical terms before using them to estimate typical net lease payments.

In summary, the net to land value is the typical cash lease rate minus the typical expenses incurred by the landowner. Appendix E, Figure 1 provides a hypothetical example of the cash lease method.

Steps in a Typical Cash Lease Approach

1. Gather cash lease rates from knowledgeable persons in the area. This data is not always readily available. Do not use leases of an unusual nature, long-term leases with options to buy, or leases between family members. Leases of this type are not considered normal arm's-length transactions and may not indicate the actual income-producing capacity of the soil.

2. Gather as many leases as possible for each year of the five-year period. In most cases, you will need at least four to six leases per year to develop a reliable net to land value for a specific land class. Typical leases will usually fall within a narrow dollar range. You must choose one value to serve as a typical lease rate for the year.

For example, assume you discover four grazing leases and four hunting leases for native pastureland. The payments are \$4.50 per acre, \$4.75 per acre, \$4.75 per acre, and \$5.00 per acre for each year, respectively. The four hunting lease rates are \$3.50 per acre, \$3.50 per acre, \$3.50 per acre, and \$3.25 per acre for each year, respectively.

You should not assume that the typical lease rate is an average of the lease rates collected. The typical lease rate is the most common or most likely lease rate. In the previous example, \$8.25 per acre would appear to be typical. This lease rate is based on a \$4.75 per acre grazing lease and a \$3.50 per acre hunting lease.

Use the same procedure to establish a typical lease rate for each of the remaining four years of the five-year qualifying period.

If a lease provides for an unusual owner expense—such as maintaining fences—adjust the payment by subtracting that expense. Suppose, for example, that fence maintenance in one lease costs the owner 40 cents per acre, per year. The nominal lease payment is \$4.75 per acre. After adjustment, the payment is \$4.35 per acre.

Lease rates for grazing land are often a function of livestock carrying capacity. Appraisers measure livestock carrying capacity by the number of acres required to carry or support one animal unit. An animal unit is a standard for comparing different types of livestock that equals 1,000 pounds of live weight. A cow and its calf constitute one animal unit, as do six sheep or seven goats. When carrying capacity varies in the jurisdiction because of soils, topography, or other factors, sub-classes under the native pasture class should reflect the differences.

3. Determine typical landowner expenses. In the example above, assume that the landowner has a "cost" of 50 cents per acre per year for depreciation of fences, and 47 to 52 cents per acre per year for property taxes (based on agricultural appraisal).

Calculate the depreciation cost of fences by dividing the cost of the fences on a typical operation by their life expectancy, then dividing by the typical number of acres. Half of the cost of property line fences is attributed to the typical parcel; the other half of the cost is attributed to the land across the fences.

Again, the appraiser should determine typical expenses according to actual practice in the area. Isolated unusual expenses in a single lease (like fence maintenance) are handled by adjusting the individual lease. However, if fence maintenance appears to be a typical expense, do not adjust the individual lease rates. Instead, include the fence expense as typical and subtract it from the typical lease rate.

4. For each of the five base years, subtract the expenses from the typical lease rate. The remainder is the net to land value. Average the five net to land values for each of the five years to obtain the overall net to land value for the land class for the five-year period (See Appendix E, Figure 2). Divide this net to land value by the capitalization rate to obtain the agricultural use value for the class.

Sound net to land values for one sub-class can often be adjusted to fit other sub-classes. For example, land with a carrying capacity of one animal unit per 20 acres can support twice as many animals as land with a carrying capacity of one animal unit per 40 acres. If the an-

nual payment is \$3.00 per acre for the better land, one would reasonably expect the annual payment to be \$1.50, or half as much, for land that can support half the animals.

In many areas agricultural land is also leased for hunting and other recreational purposes. The calculation of net to land should include income from hunting leases in areas where native pasture and timberland are commercially leased for deer hunting or where a prudent manager would supplement his agricultural income with hunting lease income (e.g. where native pasture is also leased for hunting).

Like other lease income, hunting income should be net income. You should deduct typical owner's expenses from total income. However, items like property taxes and depreciation, or any expense attributable to both leases, should only be deducted once. Do not subtract them from both hunting and agricultural income.

Share Lease Method

Appraisers must estimate net to land values from share leases as well as cash leases. Under a share lease, the landowner (usually) pays a share of production expenses and receives a prearranged share of the gross receipts rather than a fixed dollar amount. Share leases may vary from location to location and usually vary from crop to crop.

When choosing the sample of share leases to develop a typical share-lease amount for specific land classes, appraisers should pick only leases with terms under which a prudent landowner would lease the land. Leases may vary in terms. Selecting the typical lease is a matter of judgment and careful investigation, not mathematical averaging. In some cases, the most common or typical lease agreement within an area may not be a prudent lease agreement, especially when the most common lease agreements are between family members or are not at arm's length.

For example, suppose one lease provides that an owner receives 40 percent of income, while others in the same land class provide for the owner to receive 33 percent. After investigation, the appraiser discovers that the property owner receiving the higher percentage provides his tenant with irrigation equipment that other owners do not supply. Subtracting annual depreciation and maintenance expense on the irrigation equipment from the owner's 40 percent share brings his net income down to the same 33 percent the other owners are making.

This example shows the need to analyze lease terms. The 40 percent return only seemed higher than the 33 percent return. Returns may also seem higher or lower when a lease requires the owner to pay a greater or lesser share of expenses or to pay expenses that other owners in the area do not. The appraiser must investigate the terms of the leases he chooses to rely on and use careful judgment in making his choices.

To calculate net to land for share leases, appraisers need the following information, gathered from the sources discussed on pages 20 to 22:

- **Typical crops:** Determine the principal and typical crops grown in the area for the land class under consideration.
- **Lease agreements:** Determine the typical lease agreement between property owner and tenant. What percentage of gross income and expenses does the owner share in? What types of expenses are typical? For example, in a common share lease agreement for dry land grain sorghum, the property owner receives one-third of the gross receipts and pays one-third of the fertilizer, harvest, and hauling costs (See Appendix E, Figures 3 and 4).
- **Yield estimates:** Determine the typical yield for the crops and land class being considered. Calculate the estimated yield per planted acre. If a portion of the area's crop is destroyed by a hailstorm or not harvested for some reason, the yield per acre should reflect the acres planted, not the acres harvested. Appraisers can use one of two methods to convert yield per harvested acre to yield per planted acre.

Method 1

$$\frac{\text{Harvested acres}}{\text{Planted acres}} \times \text{Yield per harvested acre} = \text{Yield per planted acre}$$

$$\frac{\text{Total yield for all acres}}{\text{Planted acres}} = \text{Method 2 Yield per planted acre}$$

- **Price estimates:** Determine the typical price farmers receive for the crops under consideration.
- **Government Programs:** Determine whether the crops being considered are typically enrolled in government support programs, such as the deficiency payment program. If they are, then any income the owner received from the programs should be included in the calculation of net to land. If government support programs are typical, you will need further details. In the deficiency payment program, this information includes typical base (five-year average yield), the government payment rate, and the amount of acreage the program requires to be set aside or idled. [NOTE: Do not use income from CRP payments. The CRP program is discussed on pages 29-30.]
- **Cost estimates:** Determine the typical variable and fixed expenses.
- **Additional income:** Determine any additional income farmers typically receive and share with the property owner. For example, this amount would include the income received from grazing cattle on wheat fields as well as any other income incidental to producing crops or raising livestock. In areas where grazing land is commonly set aside to rejuvenate the cover, adjust grazing income to reflect that fact.

After collecting and reviewing the above information, the next step is to choose a method for determining net to land. The two available methods are:

- **Five-year average lease income:** Use five-year averages of crop yields, prices, additional income, and expenses to determine typical net to land for each class.
- **Five yearly leases:** Calculate the annual net to land for each of the five years, then average them.

Because leasing practices and government farm programs change, the second method, using separate calculations for each year, is preferable.

Calculating Net Income for a Typical Share Lease

Calculating net to land for a share lease requires four steps:

1. Calculate the landowner's share of gross income.
2. Calculate the landowner's share of expenses.
3. Subtract the owner's expenses from the owner's gross income.
4. Repeat the preceding steps for the four years remaining in the base period.

The following discussion shows how to complete these steps. It uses the example of dry land grain sorghum and assumes that the owner receives one-third of gross receipts and pays one-third of the fertilizer, harvest, and hauling expenses.

The typical yield for one year in the five-year period was 2,165 pounds per acre. The typical price received on the yield was \$4.35 per hundredweight (cwt.).

The typical property owner shared the following costs with his tenant: \$15.00 per acre for fertilizer, \$10.00 per acre for harvesting, and \$.25 per cwt for hauling.

In this area, farmers typically participate in the grain sorghum deficiency payment program. During the year, the average base for government payments was 2,420 pounds per acre, with a payment rate of \$.79 per cwt. The farmer had to set aside 10 percent of his land to participate. The property owner does not share in the variable expenses associated with the set-aside land but is responsible for 100 percent of the fixed costs.

Property taxes were approximately \$1.75 per acre.

1. Calculate the landowner's share of gross income. Multiply the average price received times the typical yield per planted acre times the landowner's share times the percentage planted. The percentage planted takes into account the land set aside in government programs. In the example, 10 percent of the land is set aside and 90 percent planted. In our example, the gross income for the year in question would be calculated as follows:

Grain Sorghum	=	\$ 4.35 per cwt x 21.65 cwt x .333 x .90	=	\$ 28.22
Deficiency Payment	=	\$.79 per cwt x 24.20 cwt x .333 x .90	=	<u>5.73</u>
Gross Income			=	\$ 33.95

2. Calculate the landowner's share of shared expenses. Multiply the cost per unit or acre times the number of units times the owner's share times the percentage planted.

Fertilizer	\$ 15.00 peracre x	1 acre x .333 x .90	=	\$ 4.50
Harvest	\$ 10.00 peracre x	1 acre x .333 x .90	=	3.00
Hauling	\$.25 per cwt x 21.65 cwt per acre x .333 x .90	=	<u>1.62</u>	
Share Expenses			=	\$ 9.12

In addition, expenses include the property taxes (based on agricultural use appraisal). The tax was \$ 1.75 per acre.

3. Subtract the owner's shares of expenses and property taxes from the owner's share of gross income. The remainder is the net to land value for the year in question.

$$\$ 33.95 - \$ 9.12 - \$ 1.75 = \$ 23.08$$

4. Repeat these three steps for each of the other four years in the five-year period.

In most cases, more than one crop is typical and prudent in an area, so appraisers must calculate more than one net to land value for each year. To develop a net to land value for a land class, you must combine the net to land values for each crop.

Appraisers combine the net to land values established for each of the crops according to the percentage of crop mix. Suppose the dry land mix was 40 percent grain sorghum, 30 percent cotton, and 30 percent wheat. The net to land value for the individual crops was \$26.25 for grain sorghum, \$27.59 for cotton and \$19.05 for wheat. The net to land value for the class is determined by calculating a weighted average:

	Crop Mix		Crop Net to Land		Combined Net to Land
Grain Sorghum	.40	x	\$26.25	=	\$ 10.50
Cotton	.30	x	\$27.59	=	\$ 8.28
Wheat	.30	x	\$19.05	=	<u>\$ 5.72</u>
					\$ 24.50

The five-year average of the annual net to land values can then be used to determine the productivity value for the land class.

Unavailable Leases-Alternative Methods

In some cases, neither share nor cash leases will be available for comparison within the immediate area. For example, fish farms and exotic game ranches are rare, and finding five to eight leases within the entire state may be difficult.

If leases are unavailable, the chief appraiser must use alternative methods to determine the amount a reasonable lessee in the area would pay to lease the land on either a cash or share basis. He may go outside the appraisal district to find the nearest comparable lease operations. Using his best judgment, the chief appraiser must decide whether he can reasonably compare these leases with operations in the district.

Appraisers must also decide whether to supplement out-of-district leases with an owner-operator budget. If no reasonably comparable leases are available, the chief appraiser may

rely entirely on the owner-operator budget method to determine what a reasonable lessee would pay to lease the land in question. Owner-operator budgets may provide the only method of estimating lease amounts for intensive or unusual agricultural operations such as truck farms or poultry farms geared toward mass production.

Appendix B on page 53 discusses the owner-operator budget method.

DEVELOPING THE APPRAISAL SCHEDULE

After calculating the average net to land values for each class and sub-class, the appraiser develops an agricultural appraisal schedule. Dividing the class net to land by the capitalization rate gives the class's agricultural use value. Using information from the previous examples, the following chart shows a typical class schedule:

Land class	Net to Land	Cap Rate	Appraisal
Irrigated Cropland I	42.00	.14	\$ 300.00
Dry Cropland I	24.50	.14	175.00
Native Pasture I	4.90	.14	35.00

CLASSIFYING INDIVIDUAL PARCELS

The major problem facing the appraiser is determining the number of acres in each land class for each individual farm or ranch. This problem is especially difficult for districts that have not developed land ownership maps.

Detailed soil surveys contain maps on soils and topography characteristics. Ownership maps incorporating soil survey information provide the most accurate means of determining acreage per land class on an individual parcel. Tracing boundary lines with a planimeter gives a relatively accurate reading of acreage within the land classes.

Districts without ownership maps must develop a procedure for obtaining acreage breakdowns. The ASCS has some information on individual farms whose owners participate in governmental programs. In addition, the Soil Conservation Service has developed conservation plans for many producers and can provide such information.

In many cases it will be necessary to obtain the assistance of the landowner in determining the acreage breakdown. The chief appraiser may consider requesting additional information from an applicant, asking for the breakdown of acres in each land class.

APPRAISING INDIVIDUAL PARCELS

If Farmer A owns a section of qualifying land (640 acres) of which 160 acres are classified as Irrigated Cropland I, 300 acres are classified as Dry Cropland I, and 180 acres are classified as Native Pasture, the total agricultural value of the land would be calculated by applying the appraisal schedule, as shown on this page, to the breakdown of acres:

Land Class	Number of Acres		Ag Use Value		Total Ag Use Value
Irrigated Cropland I	160	x	\$300	=	\$ 48,000
Dry Cropland I	300	x	175	=	\$ 52,500
Native Pasture	180	x	35	=	\$ 6,300
Total	640				\$ 106,800

In addition, the appraiser must estimate the market value of the land, based on accepted market appraisal techniques. The appraiser may appraise the total parcel or have a market value schedule that follows the same classes as the special appraisal schedule. The choice

will depend on local market conditions and on the feasibility of a schedule approach. Often a market value schedule considers the size of the tract and its location, rather than its land classification or agricultural use.

Assuming a market schedule based on use classifications is appropriate, appraisers should apply the appropriate market value schedule to the number of acres in each land class. If the market value schedule reflects \$500 per acre for Irrigated Cropland I, \$300 per acre for Dry Cropland I and \$200 per acre for Native Pasture, the calculation of market value would be as follows:

Land Class	Number of Acres		Market Value		Total Market Value
Irrigated Cropland I	160	x	\$ 500	=	\$ 80,000
Dry Cropland I	300	x	300	=	\$ 90,000
Native Pasture	<u>180</u>	x	200	=	<u>\$ 36,000</u>
Total	640				\$ 206,000

A WORD ABOUT FEDERAL FARM PROGRAMS

The federal government aids the agricultural industry through direct grants, low-interest loans, commodity subsidies, and a variety of other measures. In some cases, participation in these programs affects the agricultural productivity value of farm and ranch land. This portion of the manual summarizes the federal subsidy programs that were most common during the mid-1980s and gives information about whether—and how—to adjust net to land calculations to account for federal financial aid.

The two main programs are called the Conservation Reserve Program and “deficiency payments.” The Conservation Reserve Program (CRP) provides a ten-year payment in exchange for removing land from agricultural production. Deficiency payments provide an income subsidy based on the USDA-announced target price.

The Conservation Reserve Program

The Conservation Reserve Program (CRP) began in 1985. The program removes land from agricultural production to reduce farm surpluses. Under CRP, the federal government makes a 10-year contract with the property owner. The owner takes the land out of production and plants ground cover to deter erosion and support wildlife. The owner may lease the land for hunting but cannot allow any grazing, harvesting, or other commercial use of any crop from the land covered by the contract.

In return for participation, the federal government makes an annual payment to the property owner. The amount per acre depends on a bid price determined in the original contract. However, no owner can receive more than \$50,000 per year.

Normally, a maximum of 25 percent of any county’s total agricultural land may be placed in the CRP. That ceiling can sometimes be exceeded if putting more acreage in the program will not adversely affect the local economy.

Since Section 23.51 of the Code defines agricultural use to include “leaving land idle for the purpose of participating in any governmental program,” CRP land can qualify for agricultural appraisal under Sec. 1-d-1. On the other hand, CRP acreage may not receive a special appraisal under the old Section 1-d. Section 23.42 of the Property Tax Code (implementing 1-d) requires that an owner intend to use land for agriculture as an occupation or business venture for profit during the current year. The CRP program is an incentive to not use land for agriculture. There is no way to reconcile these differences; as a result, an owner may not receive 1-d status for his CRP land.

CRP land should be placed in the land class the property was in before it qualified as CRP land. The agricultural use – as well as the principal use – of CRP land is participation in a government program. Although the land is planted with ground cover, it is not in production. The only evidence of the land’s classification is the property’s land class before it qualified for the CRP program.

Since CRP payments aren't based on farm production, they should not be considered in calculating a net to land—no matter how typical CRP participation may be in the area. CRP land should simply receive the per acre value of other land within its land class.

Deficiency Payments

Deficiency payments are a widely used farm subsidy. About 20 percent of all Texas cropland qualified for deficiency payments in 1986. A deficiency payment is paid whenever the national average market price for a commodity produced in any one crop year falls below the USDA-announced target price for that commodity for that year.

The amount of deficiency payment per unit of proven yield is limited to the difference between the target price and the higher of the national average price or the Commodity Credit Corporation loan price. Beginning with the 1987 crop year, the total deficiency payment per farmer is limited to \$250,000. Prior to that year, the payment was potentially unlimited.

Landowners receiving deficiency payments can qualify their property under either 1-d or 1-d-1. The land itself is still being used for agricultural production—the only difference is another source of income for the commodity.

Unlike a CRP payment, a deficiency payment is attributable to the land's productivity. Appraisers should include deficiency payments in the calculation of gross income when such payments are typical in an agricultural class.

Whether an individual property owner actually received a deficiency payment in any given year does not matter. If an average owner exercising ordinary prudence would have received deficiency payments during the five-year period, the payment income must be included.

Other Federal Programs

Congress is likely to enact new forms of farm subsidies in the coming years. Amendments to this manual will acknowledge significant changes in federal financial aid. Until then, a chief appraiser should review each program carefully to determine whether it affects local productivity value for agricultural lands.

Future subsidies may not reach all classes of land and certainly will not reach all property owners within a specific class. A good rule-of-thumb to use is that the income from a federal subsidy will affect a class' net to land only when the program subsidizes production.

Part IV.

ROLLBACK PROCEDURE ON 1-d-1 LAND

The “Rollback” Tax

The law imposes a “rollback” tax on 1-d-1 land when the owner stops using it for agriculture. The same is true for 1-d land, but selling 1-d land also triggers a rollback. Under 1-d-1, the rollback tax is a penalty for taking the land out of agricultural production.

This penalty is commonly called a rollback because it recaptures the taxes the owner would have paid had his property been taxed at market value for each year covered by the rollback. This section discusses 1-d-1 rollbacks. It explains what triggers a 1-d-1 rollback and shows how to calculate the rollback tax. Section V, beginning on page 37, discusses 1-d rollbacks.

The law imposes a “rollback” tax on 1-d-1 land when it is taken out of agricultural use. The rollback tax equals the difference between the taxes the owner actually paid in the five years preceding the change in use and the taxes the owner would have paid on his property’s market value.

Technically, the tax is a new, additional tax imposed by law on the date the cessation or change of use occurs. It has its own delinquency date, and it does not exist until the event that triggers the rollback occurs.

The property owner can trigger the rollback by ending agricultural operations or diverting the property to a non-agricultural use. Selling the property doesn’t trigger the 1-d-1 rollback. If the property owner diverts only part of a property to a non-agricultural use, the rollback tax only applies to the changed portion.

The chief appraiser determines if and when the change of use occurs and must send the owner written notice of the determination. If the owner does not protest the determination or the appraisal review board decides the use has changed, the tax assessor will calculate the amount of additional tax due, add the appropriate amount of interest, and send a rollback tax bill.

WHAT QUALIFIES AS A CHANGE OF USE?

A change of use is a physical change. The owner must stop using the land for agricultural purposes.

If the owner continues to use the land for agriculture but does not maintain the degree of

intensity typical for the area, the land may lose its eligibility for 1-d-1 appraisal without suffering a rollback. Reduced intensity that results from the owner's free choice will cause a loss of agricultural appraisal. Reduced intensity resulting from agricultural necessity will not. If the land remains in agricultural use, however, neither kind of reduction will trigger a rollback.

Suppose, for example, that the typical ranching operation in a district has one animal unit for every 10 acres of pasture. A landowner who has been receiving agricultural appraisal gets tired of ranching and sells off his entire herd. Since he has stopped all agricultural activity, he will lose agricultural appraisal and suffer a rollback.

If, however, the rancher reduces his herd so that he has one animal unit for every 50 acres of pasture, he will lose his eligibility for agricultural appraisal without suffering a rollback. Since the land remains in agricultural use, the rollback penalties do not apply. The same result occurs when the land is sold to a non-resident alien or when agriculture ceases to be the primary use of the land.

Special situations such as freezes, droughts, or severe fires can create an agricultural necessity that extends the normal time the land remains out of agricultural production. In such cases, the land remains eligible for agricultural appraisal until the owner clearly evidences an intent to give up agriculture permanently. For example, a drought might deplete water and feed supplies, requiring ranchers to sell off their herds and leave the land idle until native pasture is restored. If, after one year, the typical rancher restocks his herd and resumes production, those ranchers who keep their land out of agricultural use more than one year will lose their eligibility for 1-d-1 appraisal and suffer a rollback. The same general principles would apply if a drought damaged the land and required farmers to suspend agricultural operations for a period exceeding the normal soil rotation period or if freezes destroyed citrus groves.

If agricultural necessity forces a property owner to postpone agricultural operations on part of a larger tract, he can retain agricultural appraisal on the entire tract, and he will not incur a rollback on any portion of the property. For example, fire might destroy 200 acres of a 2,000 acre range, forcing the owner to postpone agricultural operations on those 200 acres until the native pasture restored itself. The owner would continue to receive agricultural appraisal on the entire tract.

Chief appraisers must exercise great care in determining when a change of use triggers a rollback. Rollback is a serious economic penalty that should not be imposed when circumstances beyond a property owner's control cause an abnormally long but temporary suspension of agriculture. Appraisers must keep in mind that change of use issues are often unclear and require a delicate balance between fair applications of the law and good decisions based on the facts of each situation.

Some changes of use do not trigger a rollback. Property condemned or sold for right of way won't be rolled back even if its use changes. Filing a waiver of special appraisal will not trigger a rollback if the use does not change. Also, a property owner can divest part of the land for use as his own residence homestead without triggering a rollback. If, however, an owner builds a residence homestead on land that formerly qualified for 1-d-1 appraisal, he avoids rollback only as long as he continues to use the home as a residence. Selling the home may trigger a rollback on the land making up the homestead. In effect, the owner must occupy the house for five years to avoid a rollback tax accruing for the years the land was not taxed at market value.

The Change of Use Determination

On determining either that agriculture has stopped or that the land has been diverted to a non-agricultural use, the chief appraiser must send the owner written notice of the determination. The notice must explain the owner's right to protest the determination. The required SPTB notice of change of use determination is in Appendix F.

The owner may protest the change of use decision by filing a protest with the appraisal review board within 30 days after the notice is mailed. The appraisal review board must hear a timely protest even if appraisal records have been approved for the year.

Taxes for the Year that the Use Changes

If land changes to a non-qualifying use from a qualifying one after the appraisal review board has approved the appraisal records, the land is back assessed for the difference between the property's market value and its agricultural use value. The assessor sends a supplemental bill for taxes on the added value. This amount becomes delinquent on the same date as the original tax bill for the property. If those taxes have been paid, the supplemental bill becomes delinquent on February 1 of the year following the date the bill is mailed or the first day of the next following month that allows the property owner 21 days to pay the tax, whichever is later.

HOW IS THE ROLLBACK CALCULATED?

The 1-d-1 rollback covers the five calendar years preceding the current year. If the use changes in 1989, the rollback covers 1988, 1987, 1986, 1985, and 1984. The preceding years are based on the use from January through December and not on the tax collection periods.

The rollback tax itself is the difference between the taxes paid under special appraisal and the total taxes that would have been paid on the market value of the land. For example:

Year	Tax Paid	Tax on Market Value	Difference
1988	\$ 50	\$ 500	\$ 450
1987	\$ 50	\$ 520	\$ 470
1986	\$ 50	\$ 500	\$ 450
1985	\$ 50	\$ 480	\$ 430
1984	\$ 50	\$ 420	\$ 370
Total Rollback Tax:			\$ 2,170

The assessor must add seven percent annual interest on these amounts from the date they would have become due. The due date for each year is the date tax bills were mailed that year.

Since the assessor computes interest from the date the difference would have become due to the date the change of use occurs, some proration will be necessary.

Assuming that the use changed November 1, 1989, and that the assessor mailed tax bills on October 1 each year, the interest is calculated as follows:

1988 interest runs from October 1, 1988 to November 1, 1989, or 1 year and 32 days.

The formula for the interest is:

$$\begin{aligned} \$ 450.00 &= \text{Tax} \\ \$ 31.50 &= \$ 450 \times .07 = \text{One year's interest} \\ \$ \underline{2.76} &= \$ 450 \times .07 \times (32 \div 365) = 32 \text{ days' interest} \\ \$ 484.26 &= \text{Total 1988 tax and interest} \end{aligned}$$

1987 interest runs from October 1, 1987 to November 1, 1989, or 2 years and 32 days.

The formula for the interest is:

$$\begin{aligned} \$ 470.00 &= \text{Tax} \\ \$ 65.80 &= \$ 470 \times .07 \times 2 = 2 \text{ years' interest} \\ \$ \underline{2.88} &= \$ 470 \times .07 \times (32 \div 365) = 32 \text{ days' interest} \\ \$ 538.68 &= \text{Total 1987 tax and interest} \end{aligned}$$

1986 interest runs from October 1, 1986 to November 1, 1989, or 3 years and 32 days.

The formula for the interest is:

$$\begin{aligned} \$ 450.00 &= \text{Tax} \\ \$ 94.50 &= \$ 450 \times .07 \times 3 = 3 \text{ years' interest} \\ \$ \underline{2.76} &= \$ 450 \times .07 \times (32 \div 365) = 32 \text{ days' interest} \\ \$ 547.26 &= \text{Total 1986 tax and interest} \end{aligned}$$

1985 interest runs from October 1, 1985 to November 1, 1989, or 4 years and 32 days.
The formula for the interest is:

$$\begin{aligned} \$ 430.00 &= \text{Tax} \\ \$ 120.40 &= \$430 \times .07 \times 4 = 4 \text{ years' interest} \\ \$ \underline{2.64} &= \$430 \times .07 \times (32 \div 365) = 32 \text{ days' interest} \\ \$ 553.04 &= \text{Total 1985 tax and interest} \end{aligned}$$

1984 interest runs from October 1, 1984 to November 1, 1989, or 5 years and 32 days.
The formula for the interest is:

$$\begin{aligned} \$ 370.00 &= \text{Tax} \\ \$ 129.50 &= \$370 \times .07 \times 5 = 5 \text{ years' interest} \\ \$ \underline{2.27} &= \$370 \times .07 \times (32 \div 365) = 32 \text{ days' interest} \\ \$ 501.77 &= \text{Total 1984 tax and interest} \end{aligned}$$

The total rollback tax and interest due is \$2,625.01.

The interest proration can be done using number of days only. For example, 1985's interest runs for 1,492 days (4 years = 1,460 days + 32 days from October 1 to November 1). The interest can be computed by multiplying:

$$\$ 430 \times .07 \times (1,492 \div 365) = \$123.04$$

GAPS IN THE FIVE-YEAR PERIOD

It could happen that the five-year rollback period will include years when the property didn't qualify for agricultural use appraisal. If the property had been taxed on market value in 1985, the rollback tax would have been computed for 1984, 1986, 1987, and 1988.

It could also happen that the property owner switched from 1-d to 1-d-1 designation during the five year period. Calculation in these cases is discussed in Part V, dealing with 1-d rollbacks.

WHEN ARE ROLLBACK TAXES DUE?

The rollback tax is due when the rollback tax bill is mailed. It becomes delinquent if not paid before the February 1 that is at least 20 days after the tax bill is mailed. For example, if the bill is mailed on January 9, it becomes delinquent on the next February 1 because there are 20 days between February 1 and January 9. However, if the bill is mailed January 30, it becomes delinquent the February of the following year. On the delinquency date the entire amount begins to draw penalty and interest at the same rate as delinquent taxes.

A tax lien attaches to the land on the date the use changes. The lien covers payment of the additional tax, interest, and any penalties.

If land is sold at about the same time the use changes, the buyer and seller may dispute liability. Under the law, the person who has title to the property on the date the use changes is personally liable for the rollback, but the lien may be foreclosed against the land regardless of who is liable for taxes. Tax certificates on land that receives agricultural appraisal must note the appraisal and state that the land may be subject to additional taxes.

DOES THE ROLLBACK TAX APPLY TO LAND BOUGHT AND CHANGED BY AN EXEMPT ORGANIZATION OR GOVERNMENT ENTITY?

Exemptions that apply to ordinary property taxes do not apply to rollback taxes. Even if the land might be exempt from ordinary taxes in the new owner's hands, the rollback tax still becomes due if that owner takes the property out of agricultural use. In most cases, the owner will be personally liable for the rollback tax, and the tax lien can be enforced against the property. Where the state or a political subdivision buys the land and changes the use, the rollback will be triggered but the lien cannot be foreclosed. The tax can't be collected unless the governmental entity chooses to pay it. However, the lien against the land continues and could be enforced against a later buyer.

QUESTIONS ABOUT ROLLBACK PROCEDURES

Q. Is a rollback triggered if land loses its eligibility for special appraisal or if the owner does not reapply?

A. No. Only an end to all agricultural use or an affirmative change of use triggers rollback under 1-d-1. If the land continues in agricultural use but no longer qualifies, it will be taxed at market value. However, there will be no rollback tax.

Q. Is a rollback automatically triggered if the property owner files documents to plat his land?

A. No. Evidence that the actual use of the land has changed triggers the rollback. Plat documents provide some evidence but must be accompanied by physical change, such as ceasing agricultural operations, cutting roads, or installing utilities. Even in that case, the change of use may affect only part of the platted land.

Q. Does sale of the land to an alien trigger a rollback?

A. No. An alien's residency status can affect eligibility for special appraisal, but only cessation or change of use triggers a 1-d-1 rollback. See page 11 for a discussion of resident and non-resident aliens.

Q. Do discounts for early payment apply to rollback taxes?

A. No. Discounts to encourage prompt payment of taxes apply only to regular property taxes. They do not apply to rollback taxes.

Sec. 23.55, Property Tax Code. Change of Use of Land.

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) A determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) of this sec-

tion do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year.

(i) The use of land does not change for purposes of Subsection (a) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

Sec. 41.41(8). Right of Protest.

(a) A property owner is entitled to protest before the appraisal review board the following actions:

(8) a determination that a change in use of land appraised under Subchapter C, D, or E, Chapter 23, has occurred.

Sec. 41.44(a)(3) and (c). Notice of Protest.

(a) Except as provided by Subsections (b) and (c), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

(3) in the case of a determination that a change in the use of land appraised under Subchapter C, D, or E, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner.

(c) A property owner who files notice of a protest authorized by Section 41.411 is entitled to a hearing and determination of the protest if he files the notice prior to the date the taxes on the property to which the notice applies become delinquent. An owner of land who files a notice of protest under Subsection (a)(3) is entitled to a hearing and determination of the protest without regard to whether the appraisal records are approved.

Part V.

AGRICULTURAL APPRAISAL

UNDER SECTION 1-d

The beginning of this manual pointed out that Texas has two different agricultural appraisal laws—Article VIII, Section 1-d, of the Texas Constitution and Article VIII, Section 1-d-1, of the Texas Constitution. Much of the agricultural land in Texas could qualify for an agricultural appraisal under either law, but virtually all the land that receives a special value in Texas today is qualified under Section 1-d-1.

This chapter summarizes the application, qualification, appraisal, and rollback procedures under Section 1-d.

On January 1, the land must be devoted exclusively to or developed continuously for agricultural use for three years before the current year. Agricultural land is land that is used to produce plant or animal products under natural conditions. It does not include land used to process agricultural products after harvest. It doesn't include the production of timber or forest products.

The landowner must use and intend to use land as an agricultural occupation or business venture for profit during the current year. The land must be owned by an individual. Land does not qualify under 1-d if it is owned by a corporation, partnership, trust or other association.

Agriculture must be the owner's primary occupation and source of income. Primary here means "chief or largest." If the owner conducts several different occupations, then agriculture

Sec. 23.42. Eligibility.

(a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) he is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is his primary occupation and primary source of income.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occu-

pation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

(1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

(2) "Occupation" includes employment and a business venture that requires continual supervision or management.

must take more of his time and effort than any other occupation. This doesn't necessarily mean that agriculture must take up a majority of his time; it means that agriculture should take more time than any other single occupation or business venture.

Similarly, agriculture must provide more of the person's gross income than any other single occupation or business venture. In making this comparison, the chief appraiser considers only agricultural income and income produced from other activities or business ventures in which the owner works or gives continuing supervision or attention. Proceeds from land sales, interest income, social security, rentals from inherited commercial property, and oil and gas income are specifically excluded.

To determine a person's primary occupation and source of income, average the time spent and gross income earned from each occupation for no more than five consecutive years immediately before January 1 of the current year. If the owner has not been in agriculture as an occu-

Texas Constitution, Article VIII, Sec. 1-d. Assessment of Lands Designated for Agricultural Use.

(a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

Sec. 23.41, Property Tax Code. Appraisal.

(a) Land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. The value of land based on its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

(b) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use.

(c) The board shall compile, publish, and distribute to the appraisal offices information about soil type, general topography, general weather conditions, and other factors affecting land's capacity to produce agricultural products for use in classifying agricultural land.

(d) Each year the board shall compile, publish, and distribute to appraisal offices schedules of the agricultural costs and prices for use in calculating average net income for each type of agricultural operation. The board shall use information provided by other state agencies and educational institutions, federal agencies, and other entities interested in agriculture in developing the classifications of land and the schedules.

(e) Improvements other than appurtenances to the land, the mineral estate, and all land used for residential purposes and for processing harvested agricultural products are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshaping of or additions to the soil for agricultural purposes are appurtenances to the land, and the effect of each on the value of the land for agricultural use shall be considered in appraising the land. However, the State Property Tax Board shall provide that in calculating average net income from land a deduction from income be allowed for an appurtenance subject to depreciation or depletion.

pation for the entire year before January 1, only the owner's time and income since beginning the agricultural occupation has any bearing on the property's qualification.

Suppose, for example, that land has been in continuous agricultural use for four years. On June 1, 1989, it sells to someone new to farming. The purchaser files an application for 1-d appraisal in April of 1990. Since the land has been in continuous agricultural use for over four years, it may qualify. The chief appraiser should examine the time between June 1, 1989, and April of 1990 to determine whether the purchaser meets the time and income requirements.

As long as agriculture is the owner's primary occupation and primary source of income, land may receive 1-d appraisal if it is used for non-agricultural purpose (such as hunting) that is secondary to and compatible with the agricultural use of land. Page 25 of Section III discusses the impact of compatible secondary uses on net to land.

APPLICATION PROCEDURES

To receive a 1-d appraisal, a property owner must file an application each year. The SPTB form appears as Form 1 in Appendix F. A person who has received agricultural use appraisal in the prior year only needs to report that all previously filed information is unchanged. The use of the SPTB form is not mandatory, but the district's application must substantially comply with the SPTB form.

Owners must file applications with the chief appraiser in the appraisal district where the land is located. Farmers or ranchers whose land is appraised by more than one appraisal district must file an application in each district.

Application deadlines for 1-d appraisal are the same as those for 1-d-1. The application must be filed before May 1. In individual cases, and only if good cause is shown, the chief appraiser may extend the May 1 deadline by a single period not to exceed 60 days. An extension must be given in writing and prior to May 1.

In addition, when extension for good cause is not granted, owners may file a late application until the appraisal review board approves records for that year (usually about July 20). However, a late application is subject to a penalty equal to 10 percent of the difference between the tax if imposed at market value and the tax that would be due if imposed at the agricultural productivity value.

Land is not eligible for special appraisal unless each year an application for agricultural use designation is filed on time.

The chief appraiser is required to:

- Send a 1-d application form before February 1 of each year to every owner whose land was designated for agricultural use during the preceding year.
- Briefly explain how to qualify for agricultural designation.
- Publicize the application process and availability of forms in a manner that is reasonably designed to come to the attention of all residents in the district.

Late Applications

An application may be filed after April 30 and still permit special appraisal for that year if it is filed before the appraisal review board approves records (usually about July 20). Late applications for 1-d appraisal are processed under the same guidelines as applications for 1-d-1 appraisal. For a full discussion, see page 13 in Section II.

Chief Appraiser's Action

The chief appraiser must review each application and decide whether to:

- approve it and designate the land as agricultural use;
- disapprove the application and request additional information; or
- deny the application.

The chief appraiser must determine the validity of all timely filed applications before May 15 of each year. At that time, he turns all appraisal records over to the district's appraisal review board. The board spends about two months reviewing all appraisal records, including a review to make sure that all applications for agricultural appraisal have been correctly granted. Property owners that were denied agricultural use appraisal may file a protest with this board. Taxing units that believe special appraisal was erroneously granted to any property owner may seek to remove that grant by filing a challenge with the review board.

If a chief appraiser has denied an application, he must notify the applicant within five days of the denial. The notice must contain a brief explanation of the procedures for protesting to the appraisal review board.

Sec. 23.43, Property Tax Code. Application.

(a) An individual claiming the right to have his land designated for agricultural use must apply for the designation each year he claims it. Application for the designation is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form in a given year, he may not receive the agricultural designation for that year.

(d) The State Property Tax Board in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim. The board shall require that the form permit a claimant who has previously been allowed an agricultural designation to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(e) Before February 1 the chief appraiser shall deliver an application form to each individual whose land was designated for agricultural use during the preceding year. He shall include with the application a brief explanation of the requirements for obtaining agricultural designation.

(f) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

Sec. 23.431. Late Application For Agricultural Designation.

(a) The chief appraiser shall accept and approve or deny an application for an agricultural designation after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If an application for agricultural designation is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between

the amount of tax imposed on the property and the amount that would be imposed without the agricultural designation.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit to which an agricultural designation allowed after a late application applies shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Sec. 23.44. Action on Application.

(a) The chief appraiser shall determine individually each claimant's right to the agricultural designation. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and designate the land for agricultural use;

(2) disapprove the application and request additional information from the claimant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for agricultural designation filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

Additional Information

If the chief appraiser requests additional information, the property owner must respond within 30 days after the date of the request or the application will be denied.

For good cause, the chief appraiser may extend the deadline to allow additional information. An extension cannot exceed 15 days. Page 13 of Section II discusses extensions in greater detail.

Confidentiality of Applications

To qualify for agricultural appraisal under Section 1-d the owner must provide a great deal of personal information that is not required of a person applying under Section 1-d-1. Because of this, an application for 1-d designation is confidential and may not be disclosed except:

- to an appraisal office employee who appraises property;
- in a judicial or administrative proceeding following a lawful subpoena;
- to the person who filed the application or to his representative authorized in writing to receive the information;
- to the director of the State Property Tax Board and employees he authorizes in writing to receive the information;
- to an assessor or a chief appraiser who makes a written request;
- in a judicial or administrative proceeding relating to property taxation to which the person who filed the application is a party;
- for statistical purposes, if the released information does not identify specific property or a specific property owner; and
- to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

A person with legal access to the confidential information commits a class B misdemeanor if he knowingly allows an unauthorized person to inspect the information or discloses the confidential information to an unauthorized person.

APPRAISAL PROCEDURES FOR 1-d LAND

Section 23.41, Property Tax Code, establishes the appraisal procedure for 1-d agricultural-use land. Districts must base their appraisals on the land's capacity to produce agricultural products. Taxable value is determined by "capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year." This statute must be read in conjunction with its constitutional counterpart—Article VIII, Section 1-d. Portions of that section state that agricultural land must be valued upon "consideration of only those factors relative to such agricultural use."

Together, these provisions require an income approach for agricultural land, considering only the income from agricultural production. On the surface, this appears identical to the income approach required in valuing 1-d-1 land. However, Sec. 23.53 of the Property Tax Code, which applies only to the appraisal of 1-d-1 land, fixes the capitalization rate for the income appraisal. That rate, under today's conditions, far exceeds a market-based rate that would be derived from sales of agricultural land.

The State Property Tax Board suggests that a chief appraiser value 1-d land using the methods and procedures described in this manual for 1-d-1 land. A chief appraiser should classify land qualified under Section 1-d according to the classification system described in this manual on pages 22 to 30. The land would receive the same per acre value as if it had been qualified under Section 1-d-1.

ROLLBACK PROCEDURES FOR 1-d APPRAISAL

The law imposes a "rollback" tax on 1-d land when the owner takes it out of agricultural use or sells it. The rollback period is three years (rather than the five-year period under 1-d-1). The tax is measured by the difference between the taxes the owner actually paid in a year and the taxes the owner would have paid if his property had been taxed at market value. Unlike a rollback on 1-d-1 land, the rollback tax does not include interest from the date the difference would have become due. Instead, the owner has one full business day after triggering the rollback to pay it without accruing interest. Otherwise, he must pay one percent interest per month from the date of the rollback.

Generally, the 1-d rollback is similar to the 1-d-1 rollback discussed in Part IV in the following respects:

- The rollback tax recoups the tax the owner would have paid if his land had been taxed at market value for the years covered by the rollback.
- The rollback tax is a new, additional tax imposed on the date the event that triggers it takes place.
- A tax lien attaches to the land on the date the rollback is triggered.
- 1-d-1 rules for determining whether a cessation or change of use has occurred also apply to 1-d land.
- The owner can use part of the land for a residence homestead without triggering a rollback.
- The chief appraiser determines whether a cessation or change of use has taken place and mails the SPTB notice of the determination. The owner may protest the determination within 30 days after the notice is mailed. The required SPTB form appears in Appendix F (Form 4).

If the owner does not protest, the appraisal review board determines a change of use has occurred, or the land is sold, the assessor prepares a bill for additional taxes and delivers it to the property owner. The tax is due and becomes delinquent if not paid before the February 1 that is at least 20 days after the bill is mailed. Delinquent tax-

Sec. 23.46, Property Tax Code. Additional Taxation.

(a) When appraising land designated for agricultural use, the chief appraiser also shall appraise the land at its market value and shall record both the market value and the value based on its capacity to produce agricultural products in the appraisal records.

(b) Property taxes imposed on land designated for agricultural use are based on the land's agricultural use value determined as provided by Section 23.41 of this code after the appropriate assessment ratio has been applied to that value. When an assessor calculates the amount of tax due on the land, however, he shall also calculate the amount of tax that would have been imposed had the land not been designated for agricultural use. The difference in the amount of tax imposed and the amount that would have been imposed is the amount of additional tax for that year, and the assessor shall enter that amount in his tax records relating to the property.

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided for delinquent taxes becomes due. A determination that the land has been diverted to a nonagricultural use is made by the chief appraiser. The chief appraiser shall deliver a notice of the

determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the change of use occurs. If the additional taxes are due because of a sale of the land, the assessor for each taxing unit shall prepare and deliver the bill as soon as practicable after the sale occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) of this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) Land is not diverted to nonagricultural use for purposes of Subsection (c) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

es (including interest on the rollback) accrue the same penalty and interest as ordinary property taxes.

- Owners may waive the right to 1-d appraisal in the same manner as 1-d-1 waiver. Filing a waiver of 1-d appraisal does not trigger a rollback if agriculture continues on the property.
- Tax certificates on 1-d property must state that the land is receiving special appraisal and that additional taxes may be imposed. There may be disputes between buyers and sellers over who is liable for the tax. These disputes don't involve the tax collector. The lien can be foreclosed against the land regardless of personal liability.

There are three significant differences in 1-d rollbacks:

- The rollback period is the three calendar years preceding the year the rollback is triggered rather than the five preceding years.
- The owner has a one-day grace period after triggering a rollback before interest starts to run. However, it accrues at one percent per month or fraction of a month from that day forward.
- Sale, as well as, cessation of agricultural operations or change to a non-agricultural use triggers a rollback.

Taxes for the Year that the Use Changes

If land changes to a non-qualifying use from a qualifying one after the appraisal review board has approved the appraisal records, the land is back assessed for the difference between the property's market value and its agricultural use value. The assessor sends a supplemental bill for taxes on the added value. This amount becomes delinquent on the same date as the original tax bill for the property. If those taxes have been paid, the supplemental bill becomes delinquent on February 1 of the year following the date the bill is mailed or the first day of the next following month that allows the property owner 21 days to pay the tax, whichever is later.

How is the Rollback Calculated?

The 1-d rollback covers the three calendar years preceding the current year. If the use changes in 1989, the rollback covers 1988, 1987, and 1986.

The rollback tax itself is the difference between the total taxes paid on agricultural value over the three-year rollback period and the taxes that would have been paid on the market value of the land. For example:

Year	Tax Paid	Tax on Market Value	Difference
1988	\$ 50	\$ 500	\$ 450
1987	\$ 50	\$ 520	\$ 470
1986	\$ 50	\$ 500	\$ 450
Total Rollback Tax: \$1,370			

The owner has a grace period of one full business day to pay the rollback taxes without paying any interest. After the grace period, the rollback tax accrues interest. For example, if land is sold on November 1, 1989, the new owner can pay the rollback on November 2 with no interest. On November 3, the tax begins to accrue interest.

Suppose the owner does not pay the rollback tax until January 1, 1990. The tax has accrued interest for the months of November, December, and January. The amount due is calculated as follows:

$$\$1,370 \times .03 = \$41.10 \text{ interest} + \$1,370 = \$1,411.10 \text{ due.}$$

As with 1-d-1 rollbacks, if the property did not receive 1-d appraisal in one of the three preceding years, there is no rollback tax liability for that year.

Combining 1-d and 1-d-1 Rollbacks

Occasionally property owners switch from one type of designation to the other. If the property owner switches from 1-d to 1-d-1 designation or from 1-d-1 to 1-d, no rollback occurs. If, however, the property owner switches from one designation to the other and then takes the property out of agricultural use, he triggers rollbacks for both designations. Suppose the property owner received 1-d ag use designation in 1984, 1985, and 1986, and received 1-d-1 designation in 1987, 1988, and 1989. The land changes use November 1, 1989.

The rollbacks are as follows:

1-d-1: Preceding Five Years

1988: Rollback tax + seven percent interest from October 1, 1988 (or date tax bill was mailed) to November 1, 1989.

1987: Rollback tax + seven percent interest from October 1, 1987 (or date tax bill was mailed) to November 1, 1989.

1986-1984: No rollback because the land wasn't under 1-d-1 in these years.

1-d: Preceding Three Years

1988-1987: No rollback because the land wasn't under 1-d in these years.

1986: Rollback tax. Tax will also accrue interest at one percent per month unless paid on or before November 2, 1989.

1985-1984: No rollback because the 1-d rollback covers only three years.

Because the 1-d rollback covers only three years, there is no rollback on 1-d designation in the 4th and 5th preceding years. If the property owner had switched to 1-d-1 in 1986 instead of 1987, he would have paid 1-d-1 rollback taxes for 1988-1986, and no 1-d rollback taxes.

Should the property owner switch from 1-d-1 to 1-d and change the use, the same principles apply. However, if the owner sells the property, he may trigger a 1-d rollback without triggering a 1-d-1 rollback. Suppose the example above were reversed. The property received 1-d-1 designation for 1984-1986 and 1-d designation for 1987-1989. The property sells November 1, 1989, but there is no change of use. There is no 1-d-1 rollback. The 1-d rollback is calculated as follows:

1988: Rollback tax. Tax will also accrue interest at one percent per month unless paid on or before November 2, 1989.

1987: Rollback tax. Tax will also accrue interest at one percent per month unless paid on or before November 2, 1989.

1986-1984: No rollback tax. Property was under 1-d-1, and sale does not trigger 1-d-1 rollback.

Part VI.

APPENDICES, FIGURES, & FORMS

Appendix A

Questions and Answers About 1-d-1 Qualification

The following examples describe practical problems in the qualification of land for agricultural appraisal. They should help tax administrators understand the principles behind qualifying land for special appraisal.

- 1. Q.** A property owner has acquired four contiguous tracts over the years. The tracts are not divided by fences; in fact, they are used together as a single ranch operation. How should the owner file the application(s) for special appraisal as 1-d-1 land?

A. The property owner should file one application covering all four tracts. Even if the tracts appear as individual accounts in the appraisal records and on the appraisal roll, the property owner's use of the tracts together, in a single agricultural operation, means that he need only file a single application. Owners should also file a single application if the parcels making up a single agricultural operation are not contiguous.

Both property owners and appraisal districts need to be alert to the possibility that a particular parcel may be used as part of a larger operation. Districts should inform potential applicants; applicants should point out larger uses to the district.

Page 13 discusses the issues this question raises.

- 2. Q.** The chief appraiser in a certain district has established a blanket policy that no parcel smaller than 10 acres in size can qualify for special agricultural appraisal. A property owner has an orchard that has 9.5 acres of pecan trees. May this tract qualify?

A. Any policy that establishes arbitrary minimum sizes for acreage is invalid, but a policy of following guidelines that include minimum tract sizes for each class or subclass of land, based on the principal uses of the tracts and upon the general intensity of a typical operation in the area, is probably valid.

The chief appraiser cannot fix a totally arbitrary limit on parcel size. Where smaller tracts of land meet the statutory requirements, they may still qualify. The orchard land could still qualify for agricultural appraisal if it is being used to the intensity typical in the area.

There is no minimum (or maximum) amount of acreage that may qualify for special

appraisal. Obviously, tethering a cow, keeping a chicken coop, or raising a small pen of goats cannot by itself qualify land as having an agricultural use. There must be a use that is "to the degree of intensity typical in the area" and a use that is "principally . . . agricultural." In many cases, smaller tracts will not qualify under the statutes.

The chief appraiser must become extremely familiar with agricultural activities in the area. He may create guidelines using some minimum size restrictions but only if they relate to the proper agricultural economy of land. For example, a chief appraiser may determine that—based on the type of land and soil prevalent within the appraisal district—it takes 22 acres of grazing land to support one animal unit. Persons having less than the minimum under continuous use probably could not qualify for special appraisal. This land should be reviewed carefully before agricultural use appraisal is granted.

However, there are many bona fide agricultural pursuits that can take place on small tracts: vineyards, orchards, or specialty crops like strawberries, herbs, and row vegetables. For these types of products, the minimum "agricultural" size of the tracts could be quite small. Growing tomatoes and cucumbers in a backyard garden, however, does not mean that the land is a farm. Having a cow and calf penned in a small enclosure does not make the land a ranch.

Pages 6 to 9 discuss the issues this question raises.

3. **Q.** After several years of losing money on failed crops, a property owner decides to place his acreage in a federal farm subsidy program. Under the program, the farmer is only permitted to grow cover crops. He receives payments for his participation in the program. The farmer's land has qualified for 1-d-1 appraisal for several years. Does the land still qualify?

A. Yes. Participation in a government program to reduce production does not bar agricultural appraisal under Sec. 1-d-1.

Pages 29 to 30 discuss the issues this question raises.

4. **Q.** After several years of losing money on failed crops, a property owner decides to let his land lie idle. He plants clover on the land but does not participate in any farm subsidy program. His land has qualified for 1-d-1 agricultural appraisal in prior years. The normal period for crop rotation for his type of crop and soil is only one year. Now that he has taken his land out of production for his particular crop without joining a governmental program, does the land qualify?

A. The tract will lose its qualification and suffer a rollback at the beginning of the second year the land is idle. A farmer may still receive agricultural appraisal under 1-d-1 for taking the land out of production for an acceptable period to rejuvenate the soil. In this example, the rotation period is one year. By the second year, the land has been out of production for too long. The land is not being used for an agricultural purpose to the degree of intensity typical in the area in that year. For other types of crops, the rotation period could be shorter or longer, and the land would qualify until it has been out of production longer than the normal rotation period for that crop. Keeping the land out of production **longer than normal** causes loss of agricultural use appraisal and triggers the rollback.

Pages 31-32 discuss the issues this question raises.

5. **Q.** A landowner has a large unfenced acreage tract where deer and other native wildlife roam and eat natural vegetation. The land is leased for deer hunting, and the owner receives \$5,000 per year from the leases. He also receives \$10,000 per year from mineral interests and social security benefits. Does the tract qualify?

A. No. Permitting wild deer to eat natural vegetation is not an agricultural use. The property owner cannot show that the land is used for an agricultural activity. Here, the property owner failed to perform any affirmative act that meets the statutory definition

of agricultural use.

Had the owner qualified, only the income from the land would be considered. Mineral interests are separately appraised at market value. The income from minerals is not taken into consideration for purposes of calculating net to land.

Pages 6 to 9 discuss the issues this question raises.

6. **Q.** A property owner has been digging up yaupon bushes that are growing wild on his land. He sells the bushes to a retail nursery for use in residential landscaping. Does the land qualify?

A. No. If all the property owner does is dig up wild bushes, he is not engaged in agriculture. To qualify, a person should be able to point to affirmative acts that indicate he is growing nursery stock—tilling soil, propagating plants, trimming, and selectively harvesting.

Page 7 discusses the issues this question raises.

7. **Q.** A property owner has a large tract populated by wild quail and pheasant. The owner does not grow anything or graze cattle; he only leases the land for hunting purposes. Does the tract qualify?

A. No. The primary use of this land is for recreational purposes. Wild animals surviving on natural ground cover are *not* livestock. Therefore, no agricultural function is performed on the land.

Page 7 discusses the issues this question raises.

8. **Q.** A farmer's land is solely devoted to raising dairy cattle and processing milk. Most of the land is used for grazing cattle, but barns, sheds, and other buildings used for milking, storing hay, and repairing equipment occupy 10 acres. A pasteurizing and bottling plant occupies four acres. What part, if any, of the buildings or land qualifies for special appraisal?

A. The buildings must be appraised separately at their market value, since only land receives agricultural appraisal. "Land" includes appurtenances such as private roads, dams, canals, ditches, stock tanks, and other reshaping of the soil.

The land beneath farm outbuildings may receive agricultural appraisal when that area contributes to the production of primary agricultural products on the entire tract. Almost every farm or ranch requires some land for storage of the equipment, feed, seed, or other necessary items used in the agricultural operation. Without equipment and supplies, there could be no agricultural use anywhere on the tract. The 10 acres used for barns, storage, milking, and repair would qualify for agricultural appraisal. The four acres used for pasteurizing and bottling milk would not qualify, since those activities constitute processing of primary products.

Appraisers should distinguish between the value of the structures and the value of the personal property in them (such as milking machines, tractors, etc.). Implements of husbandry are not taxed. Any machinery used to process milk—such as the pasteurizing and bottling equipment—is not an implement of husbandry and would be taxed at its market value.

Pages 6 to 8 discuss the issues this question raises.

9. **Q.** A property owner maintains a number of bee hives on a small corner of his large tract. The bees fly over the entire tract to collect pollen. The honey is sold as a commercial venture. The rest of the tract is lying idle. Does the entire tract qualify?

A. No. Only the immediate area where the hives are located and honey produced qualifies as land used for an agricultural purpose.

The area immediately surrounding the hives where the honey production takes place is devoted principally to agricultural use. It is unlikely that any of the larger

tract, over which the bees fly, is being used to the degree of intensity typical in the area. However, if the owner had planted the entire tract with a special crop suited to produce a type of pollen or nectar that produces desirable honey and there were a sufficient number of hives to harvest the nectar, the remainder of the tract would qualify if it met the degree of intensity and other tests.

Pages 6 to 10 discuss the issues this question raises.

10. **Q.** A landowner grows poinsettias on his land. By early November of each year his poinsettias are shipped to markets for sale during the Christmas season. The farmer also grows lilies and ferns in his nursery. He sells these to local florists all year long. Does this tract qualify?

A. Yes. The tract qualifies if it meets the primary use and degree of intensity tests. The cultivation of these plants and other ornamental or flowering plants raised in a nursery qualifies the owner's land for 1-d-1 appraisal (so long as the process meets the degree of intensity test). Floriculture is an appropriate agricultural use for 1-d-1 designation.

Page 7 discusses the issues this question raises.

11. **Q.** A landowner grows roses in a commercial operation. Some rose bushes are sold wholesale to dealers and others are sold directly to the public. A blizzard killed all of his rose bushes and eroded some of his land. As a result, as of January 1 there was no actual cultivation of the land, but the property owner replanted in the spring. Does the tract qualify?

A. Yes. Growing roses for profit is an appropriate agricultural use if it meets the primary use and degree of intensity tests. It does not matter that there was not actual cultivation on January 1.

Land can still be devoted principally to agricultural use in a given year even if it is not being actually used for an agricultural purpose on January 1. Based on the rose grower's past use of land, intent to re-establish the rose beds, and—most important—an active return to growing rosebushes after the winter is over, land would be devoted to floriculture that year.

The chief appraiser must examine available evidence and decide whether land is "currently devoted principally to agricultural use."

Pages 6 to 8 discuss the issues this question raises.

12. **Q.** A property owner plants grapevines, intending to eventually sell grapes to a domestic winery. Over the course of six years he has planted hundreds of acres of vineyards. So far he has not realized a single dollar of income because his vines were too immature. Does the tract qualify?

A. Yes. First, many types of operations require more than a year before a crop can be harvested. The question is whether the preparations meet typical degree of intensity tests. Second, "profit" is not really relevant. 1-d-1 has no requirement for income or profit. 1-d is somewhat different, but even it requires only that the owner intend to produce income.

Pages 6 to 8 discuss the issues this question raises.

13. **Q.** A 70-acre tract that is fenced is, by deed, a single tract. For the past five years, the owner has cultivated a vegetable garden on three acres, and small grains on 17 acres. The remaining 50 acres is used for fishing, swimming, and camping for family and friends. Does the tract qualify?

A. The 50 acres used for recreational and sporting purposes clearly cannot qualify because there is no current agricultural use. The chief appraiser should deny the application on the 50 acres. In order to determine whether the 20 acres used to grow veg-

etables and small grains qualifies, the chief appraiser would need to request information on the specific crops grown, the amounts harvested, and the agricultural and management practices. This information should enable him to determine whether the 20 acres are worked to the degree of intensity a prudent operator would work them.

The initial burden of proving land's agricultural qualifications rests on the applicant.

Pages 8 to 9 discuss the issues this question raises.

14. **Q.** A property owner uses land for the commercial breeding and raising of catfish. The operation includes a series of large fish tanks (man-made ponds) where the different sized fish are kept. Does any or all of this tract qualify for special appraisal?

A. Yes. All of the land used primarily for fish production qualifies for agricultural appraisal, assuming it meets the degree of intensity test. The Texas Attorney General has ruled that fish farming qualifies as an agricultural use of land. However, the mere harvesting of fish or shellfish from the natural environment, such as capturing shellfish from saltwater tidelands, does not qualify. The difference is that there must be an actual land-based operation that encloses or domesticates the fish.

The tanks themselves are included in the special appraisal as appurtenances to the land. The ponds are only reshaping of the soil and not improvements affixed to the soil, and their value is included in the land value. Any other kind of structure or fixture—a hatching house, pumping station, or other structure—is an improvement and is appraised separately at market value.

Pages 7 and 8 discuss the issues this question raises.

15. **Q.** A farmer owns many acres of land upon which he grows Christmas trees. The entire tract is devoted to raising the trees to be sold each year for profit. Does the tract qualify?

A. Yes, the tract qualifies if it meets the degree of intensity requirements. The Christmas trees qualify as an appropriate agricultural use. The trees are ornamental plants; the statute permits special appraisal of land used for horticulture.

Page 7 discusses the issue this question raises.

16. **Q.** A farmer grows many acres of Saint Augustine and other lawn grass that is cut and sold as sod. Does the sod farm qualify for agricultural appraisal?

A. Yes, if the tract meets the degree of intensity requirement. Growing sod falls within the definition of an agricultural use (as horticulture, growing ornamental plants).

Sod production may not fit readily into typical classifications like cropland or native pastureland. The economics of sod production—the irrigation systems, higher maintenance and labor effort, and typically higher per acre income—may require the chief appraiser to develop a separate class more specific to sod farms.

Page 7 discusses the issues this question raises.

17. **Q.** Land is used for growing peaches in a commercial-scale operation. Is the land eligible for productivity appraisal and how are the peaches or trees listed in the property records?

A. Yes. The land may receive productivity appraisal. The trees are part of the land and are included in the agricultural appraisal as appurtenances to land. The peaches are also part of the land until harvest, when they become personal property. Remember, though, that farm products are exempt when in the hands of the producer.

Pages 6 to 7 discuss the issues this question raises.

18. **Q.** A property owner has a large tract containing a large herd of axis deer. The deer

are enclosed by a security fence over six feet tall. At scheduled times throughout the year, young deer are harvested. The meat and hides are sold to commercial dealers for human use and consumption. Additionally, the property owner permits recreational hunting when the herd size becomes unmanageable. Does the tract qualify for special use appraisal?

A. Yes. All of the land associated with the grazing, breeding, and harvesting of the axis deer qualifies so long as it is used to the degree of intensity that is typical of area agricultural operations. The size of the herd, the security fencing, and the fact that the ranch is a commercial operation indicate that the land is used to "the degree of intensity typical in the area."

Although recreational hunting is permitted to control herd size, the primary use of the ranch is agricultural. The year-round harvesting schedules and the herd management and harvesting procedures that emphasize desirable agricultural products over recreational products are some proof that the primary use is agricultural.

Page 8 discusses the issue this question raises.

- 19. Q.** A property owner builds a house on one acre of a large tract of land that is qualified for agricultural appraisal. He lives in the house and claims it as his homestead. Must he notify the appraisal district of a change in use?

A. Yes. The property owner must notify the appraisal district in writing before May 1 after the use changes. The land that now serves as a residence will be valued at market value, but the homestead will not be subject to a rollback penalty.

Pages 13 and 32 discuss the issues this question raises.

- 20. Q.** Thoroughbred horses are bred and raised on a 500 acre tract of land. The horses graze on 450 acres, 40 acres are used to raise grain to feed the horses, and a stable where the horses and supplies related to them are kept occupies five acres. Another five acres is set aside for training the horses to race and includes a running track. The land is primarily used to breed and raise horses, and is used to the degree of intensity typical for the area. May all or part of the land qualify for special use appraisal?

A. The 490 acres upon which the horses are bred and grazed and where feed for them is grown, qualifies. This land is used directly for raising, breeding, and supporting horses—all agricultural purposes. The land holding the stables also qualifies, because this area is used to support the raising of horses. The land where the horses are trained for racing, however, does not qualify. This is not an agricultural use of land.

Page 8 discusses the issue this question raises.

- 21. Q.** A small tract is used to board horses used by their owners for pleasure riding and show competition. The land has a riding ring, and the remaining land is available for pleasure riding. The property owner does not graze the horses on the land. May the land qualify for a special use appraisal?

A. None of the land will qualify for 1-d-1 appraisal. The use of this land to feed and care for horses is not incidental to an operation breeding and raising horses.

Page 8 discusses the issue this question raises.

- 22. Q.** A rancher grazes cattle over a large tract. He devotes most of his time and resources to raising cattle and growing feed for them. During part of the year, he leases his property for hunting wild game and game birds. Although the rancher principally devotes his land to cattle ranching, his income from the hunting leases is substantially greater than his income from cattle ranching. Does the tract qualify for agricultural appraisal?

A. Yes, the land would qualify. For 1-d-1, determining the primary use of land usually

does not have much to do with measuring or comparing income derived from each use. The owner's intent, and his commitment of energy and resources over a period of time are more accurate indicators of the primary use of the land.

Page 8 discusses the issue this question raises.

Appendix B

Estimating Lease Terms from Owner-Operator Budgets

When appraisers cannot find data on comparable leases or are dealing with a highly unusual land class (such as a fish farm or a commercial poultry operation), the owner-operator budget method may enable them to develop an estimated net operating income. On the basis of this net income, they should then estimate the cash amount or share for which a prudent operator would lease the property. The estimated lease is the net to land.

The owner-operator budget method involves five basic steps:

1. Collect information on the gross income that a prudently managed agricultural operation in the subject class would generate.
2. Estimate and subtract the typical production expenses involved in a prudent operation. The result is the net operating income.
3. Determine the amount a prudent owner would receive for leasing land capable of producing that estimated income. The estimated lease amount is the net to land.
4. Repeat the preceding steps for each year of the five-year qualifying period.
5. Average the five estimated nets to land, then capitalize the average into an indicated value.

Estimating the gross income for the subject land class requires appraisers to determine the typical crop mixture or stocking ratio for such properties and the income the property would typically generate from other sources, such as hunting leases or government programs. Multiplying the estimated yield per acre times the estimated price times the percentage planted gives the gross income. Where operators typically grow more than one crop or mix livestock and stocking ratios within a land class or sub-class, the gross income should be weighted to reflect the practices a prudent operator would employ.

After estimating the gross income, appraisers should estimate and subtract the expenses a typical, prudent operator would incur. This expense estimate bears no relation to the expenses shown on an operating statement for income tax purposes. Appraisers should only estimate and deduct those expenses necessary to the ongoing agricultural operation. They should not, for example, deduct any amount for debt service, nor should they deduct income taxes or depreciation of non-typical equipment or improvements.

In general, expenses will include such things as feed, seed, fertilizer, harvesting and labor costs, fuel, and property taxes assessed on agricultural land. In some areas of the state, water depletion may constitute a legitimate deduction. Appraisers should allow for depreciation of agricultural equipment and appurtenances, but they should follow accepted appraisal practice in doing so. They should not use accelerated depreciation figures shown on income tax returns. Appraisers should also estimate and deduct an amount for management expense. Typically, this expense is shown as a percentage of the gross income. Appraisers should base the exact percentage on the typical conditions in the area.

Subtracting estimated expenses from estimated gross income yields the net operating income. On the basis of this estimate, the appraiser should determine the typical lease payment a prudent landowner would require. Comparing the estimated net income for the subject category to estimated net incomes developed from lease information for other land categories should enable the appraiser to complete this step. Once it is completed, the averaging and capitalization are simple mathematical processes.

Appraisers should not use the owner-operator budget method as a substitute for the cash-lease and share-lease methods. The law specifies the use of the lease methods.

Appendix C

Constitutional and Statutory Provisions

Article VIII, Sec. 1-d, Texas Constitution.

Assessment of Lands Designated for Agricultural Use

(a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

Article VIII, Section 1-d-1, Texas Constitution. Open Space Land

(a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm or ranch purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

Chapter 23, Property Tax Code. Appraisal Methods and Procedures

Subchapter C. Land Designated for Agricultural Use

Sec. 23.41. Appraisal. (a) Land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. The value of land based on its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

(b) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use.

(c) The board shall compile, publish, and distribute to the appraisal offices information about soil type, general topography, general weather conditions, and other factors affecting land's capacity to produce agricultural products for use in classifying agricultural land.

(d) Each year the board shall compile, publish, and distribute to appraisal offices schedules of the agricultural costs and prices for use in calculating average net income for each type of agricultural operation. The board shall use information provided by other state agencies and educational institutions, federal agencies, and other entities interested in agriculture in developing the classifications of land and the schedules.

(e) Improvements other than appurtenances to the land, the mineral estate, and all land used for residential purposes and for processing harvested agricultural products are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshaping of or additions to the soil for agricultural purposes are appurtenances to the land, and the effect of each on the value of the land for agricultural use shall be considered in appraising the land. However, the State Property Tax Board shall provide that in calculating average net income from land a deduction from income be allowed for an appurtenance subject to depreciation or depletion.

Sec. 23.42. Eligibility. (a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

- (1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;
- (2) he is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and
- (3) agriculture is his primary occupation and primary source of income.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occupation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

- (1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.
- (2) "Occupation" includes employment and a business venture that requires continual supervision or management.

Sec. 23.43. Application. (a) An individual claiming the right to have his land designated for agricultural use must apply for the designation each year he claims it. Application for the designation is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form in a given year, he may not receive the agricultural designation for that year.

(d) The State Property Tax Board in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim. The board shall require that the form permit a claimant who has previously been allowed an agricultural designation to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(e) Before February 1 the chief appraiser shall deliver an application form to each individual

whose land was designated for agricultural use during the preceding year. He shall include with the application a brief explanation of the requirements for obtaining agricultural designation.

(f) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

Sec. 23.431. Late Application For Agricultural Designation. (a) The chief appraiser shall accept and approve or deny an application for an agricultural designation after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If an application for agricultural designation is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed without the agricultural designation.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit to which an agricultural designation allowed after a late application applies shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Sec. 23.44. Action on Application. (a) The chief appraiser shall determine individually each claimant's right to the agricultural designation. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and designate the land for agricultural use;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for agricultural designation filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

Sec. 23.45. Application Confidential. (a) An application for agricultural designation filed with a chief appraiser is confidential and not open to public inspection. The application and the information it contains about specific property or a specific owner may not be disclosed to

anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

- (1) in a judicial or administrative proceeding pursuant to a lawful subpoena;
- (2) to the person who filed the application or to his representative authorized in writing to receive the information;
- (3) to the director of the State Property Tax Board and his employees authorized by him in writing to receive the information or to an assessor or a chief appraiser if requested in writing;
- (4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the application is a party;
- (5) for statistical purposes if in a form that does not identify specific property or a specific property owner; or
- (6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

(c) A person who legally has access to an application for agricultural designation or who legally obtains the confidential information the application contains commits a Class B misdemeanor if he knowingly:

- (1) permits inspection of the application by a person not authorized to inspect it by Subsection (b) of this section; or
- (2) discloses confidential information contained in the report to a person not authorized to receive the information by Subsection (b) of this section.

Sec. 23.46. Additional Taxation. (a) When appraising land designated for agricultural use, the chief appraiser also shall appraise the land at its market value and shall record both the market value and the value based on its capacity to produce agricultural products in the appraisal records.

(b) Property taxes imposed on land designated for agricultural use are based on the land's agricultural use value determined as provided by Section 23.41 of this code after the appropriate assessment ratio has been applied to that value. When an assessor calculates the amount of tax due on the land, however, he shall also calculate the amount of tax that would have been imposed had the land not been designated for agricultural use. The difference in the amount of tax imposed and the amount that would have been imposed is the amount of additional tax for that year, and the assessor shall enter that amount in his tax records relating to the property.

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided for delinquent taxes becomes due. The assessor for each taxing unit shall prepare and deliver a statement for the additional taxes plus interest as soon as practicable after the sale or change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before February 1 of the year following the year in which the sale or change of use occurs.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) of this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) Land is not diverted to nonagricultural use for purposes of Subsection (c) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

Subchapter D. Appraisal of Agricultural Land

Sec. 23.51. Definitions. In this subchapter:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste and may be further divided according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation.

(5) "Income capitalization" means the process of dividing net to land by the capitaliza-

tion rate to determine the appraised value.

(6) "Exotic animal" means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant mammals.

Sec. 23.52. Appraisal of Qualified Agricultural Land. (a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter of each category of open-space land owned by that landowner and shall make each value and the market value according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The State Property Tax Board by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The State Property Tax Board by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51 of this code. The rules, before taking effect, must be approved by a majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

(e) For the purposes of Section 23.55 of this code, the chief appraiser also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

Sec. 23.53. Capitalization Rate. The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2-1/2 percentage points, whichever percentage is greater.

Sec. 23.54. Application. (a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

- (1) be on a form provided by the appraisal office and prescribed by the State Property Tax Board; and
- (2) contain the information necessary to determine the validity of the claim.

(c) The State Property Tax Board shall include on the form a notice of the penalties pre-

scribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The board, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility has ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

Sec. 23.541. Late Application for Appraisal as Agricultural Land. (a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Sec. 23.55. Change of Use of Land. (a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) The assessor shall prepare and deliver a statement for the additional taxes plus interest as soon as practicable after the change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before February 1 of the year after the year in which the change of use occurs.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year.

(i) The use of land does not change for purposes of Subsection (a) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

Sec. 23.56. Land Ineligible for Appraisal as Open-Space Land. Land is not eligible for appraisal as provided by this subchapter if:

- (1) the land is located inside the corporate limits of an incorporated city or town, unless:
 - (A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or
 - (B) the land has been devoted principally to agricultural use continuously for the preceding five years;
- (2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or
- (3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

Sec. 23.57. Action on Applications. (a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
 - (2) disapprove the application and request additional information from the applicant in support of the claim; or
 - (3) deny the application.
- (b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.
- (c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.
- (d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action and a full explanation of the reasons for denial of the application.

Appendix D

Sample Development of Class Values

The following example is intended to demonstrate for chief appraisers some of the steps required to develop agricultural productivity values. Because of the wide diversification of agriculture within the state of Texas, we cannot cover all the steps that your particular district may require. In many cases, the methods we present in this example may not be the most appropriate methods of determining productivity values. You should review all your information and carefully select the most reliable method of calculating productivity values for each individual case.

The County

Our assignment is to develop agricultural productivity values for Ferguson County. The county has 495,800 acres of land qualifying for agricultural appraisal, most of which is either dry cropland or rangeland. The dry cropland is distributed throughout the county, with a heavier concentration located in the southern half. Native pasture and improved pasture land are distributed throughout the county. In the extreme southwest corner of the county, a small but significant number of acres are irrigated.

The terrain varies. Willow River runs from the northwest corner, through the central portion, and out the eastern part of the county. The northern half of the county is predominantly rolling. In the northwestern corner, some very steep rocky canyons run into the Willow River. South of the river, the terrain is rolling, with some areas nearly level.

Acreage is distributed in Ferguson County as follows:

Native Pasture (NP)	— 257,816
Improved Pasture (IP)	— 34,706
Dry Cropland (DC)	— 198,320
Irrigated Cropland (IC)	— 4,958

Native Pasture

Cattle along with a smaller number of sheep are the main products of native pasture in Ferguson County. Some feeder cattle are pastured on native grass before being placed on small grain fields for winter grazing.

Classification of native range is based on how well the soil produces grazing for cattle and sheep. Soils differ in their capacity to produce native vegetation, and we group them into range sites according to this difference. Using the Soil Conservation Service's Soil Survey, we identified seventeen different range sites in Ferguson County. These were grouped into six sub-classes, according to estimated average yield per acre of air-dry herbage. The estimated yield is the average of the potential yield in favorable years and unfavorable years.

Figure 5 on page 75 shows the soil classification process. Soils are grouped according to their potential average herbage yield, per acre, per year. Each sub-class is assigned an index number placing it in numerical relation to the most common land sub-class. Soils grouped into the bottomland and deep upland range sites are classified in the best or highest native pasture sub-class. Sub-class #3, the most common, is assigned an index of 100. The following chart shows the land sub-class, potential average herbage yield, and index number:

Class	Potential Average Yield	Index Number
1	4400 - 4600 lbs.	150
2	3400 - 3700 lbs.	120
3	2800 - 3100 lbs.	100
4	2250 - 2500 lbs.	80
5	1900 - 2000 lbs.	65
6	900 - 1300 lbs.	40

Because land class number 1 is approximately 50 percent more productive than the most common class (land class 3), it receives an index number of 150.

We collected 10 cash leases of native pasture to determine grazing income. These leases ranged from \$4.00 acre to \$8.00 acre. Two of the 10 leases are of land which is predominately land class 3 (NP 3). Lease #1 contains 105 acres of NP 3 and five acres of NP 1. It leased for \$605 or \$5.50 acre. Lease #2 is a 212 acre tract that leases for \$1166 or \$5.50 acre. It is made up of 198 acres of NP 3 and 14 acres of NP 4.

Based upon the 10 leases, we can estimate that NP 3 would lease for \$5.50 acre. The \$5.50 acre is adjusted by each land class productivity index to determine a lease rate for each land class. Based on the index of 150 percent, native pasture 1 is assigned a lease rate of \$8.25 (\$5.50 acre x 1.50 = \$8.25 acre). All other land classes are assigned lease rates using the same method. See Appendix E, Figure 6 for the estimated prices per acre.

The analysis shows that in eight of the ten leases, the estimated lease rates were reasonably comparable to the actual lease rates. In two cases the estimated lease rates were not comparable. Based on these results, it appears that the schedule developed by the appraiser is reasonably accurate and should be used as the leasing rates for each land class.

In Ferguson County, landowners typically lease native pasture for hunting. The typical lease rate is \$2.00 acre for all land classes. At this lease rate, the hunters provide their own lodging. If the landowner provides lodging, the lease rates increase.

After reviewing all available information, we determine that the typical landowner incurs only the expenses of property taxes and depreciation on fences.

We calculated depreciation of fences by dividing the estimated cost of fences on a typical tract of land by the number of acres within the tract, then dividing the result by the expected life of the fence.

In Ferguson County, the typical tract of land is 640 acres, divided into two or more smaller tracts or pastures. The typical amount of fencing on a tract this size is four miles of outside fencing and approximately two miles of inside or cross fencing. The appraiser determines that it costs \$3,000 a mile to have a fence built in Ferguson County and that the typical life expectancy is 25 years. Only one-half of the cost of outside fence is attributed to the tract of land, the other half is attributed to the tract across the fence. The calculation of the depreciation of fences per acre is as follows:

Outside Fence	4 miles x \$ 3,000 mile	=	12,000 + 2	=	\$ 6,000
Inside Fence	2 miles x \$ 3,000 mile	=			<u>6,000</u>
Total Cost		=			\$ 12,000

$$\$12,000 \div 640 \text{ acres} = \$18.75 \text{ per acre} \div 25 \text{ years} = \$.75 \text{ per acre per year}$$

The property tax expense is based upon the agricultural productivity value. For each sub-class the actual tax expense for the year being calculated should be used.

The tax expenses in 1985 for the different land classes are:

NP1 = .65
NP2 = .53
NP3 = .45
NP4 = .38
NP5 = .32
NP6 = .22

The final net to land values for native pasture are developed by subtracting total expenses from gross income. Figure 7, Appendix E, shows the estimated 1985 net to land for each sub-class and the productivity value, assuming the 1985 net to land equals the five-year average.

Improved Pasture

Ferguson County contains 10,212 acres of improved pasture. The most important grasses are Coastal Bermuda Grass and Klein Grass. Most of the improved pasture land is converted crop land within larger ranch properties. Because the improved pasture is usually included with other land classes under one lease, very little lease information is available. The one available cash lease for improved pasture indicates \$12.50 per acre.

Comparing this lease to three leases where native pasture is mixed with a significant amount of improved pasture enables us to develop the net to land for improved pasture. To adjust the mixed leases, we determine how much of the lease payment can be attributed to native pasture, using the schedule already developed. Subtracting the native pasture lease amount from the total for each lease leaves the improved pasture portion of the lease payment. See Appendix E, Figure 8.

In the calculation, the number of acres within each sub-class of native pasture is multiplied by the corresponding lease rate developed in the native pasture section. The total native pasture contribution (the sum of the sub-classes) is subtracted from the total lease amount to determine an improved pasture amount. Dividing the improved pasture amount by the improved pasture acreage yields the improved pasture lease rate per acre. The resulting lease rates for improved pasture are \$10.03 acre, \$12.26 acre, and \$11.90 acre, all lower but close to the cash lease rate of \$12.50 acre.

With the cash lease of \$12.50 acre and the estimated lease rates of \$10.03 acre, \$12.26 acre, and \$11.90 acre, we may determine that the typical leasing rate for improved pasture is \$12.25 acre. We place more emphasis on the single cash lease, but lower the typical lease rate because of the other leases.

Because of the relatively homogeneous nature of the soils within this land class, no sub-classes are used. The net to land is based on the grazing income, minus fence depreciation and taxes. Very little hunting income or expenses are attributed to improved pasture, so these are not included in this calculation.

The 1985 net to land for Ferguson County Improved Pasture Land is:

$$\text{Net to Land} = \$12.25 - .75 - .81 = \$10.69$$

Dry Cropland

There are 198,320 acres of dry cropland in Ferguson County. Most of the cropland is planted in wheat, grain sorghum, or cotton. The majority of farmers participate in government farm programs for these crops.

Dry cropland acreage is classified according to its ability to produce the three common crops: wheat, grain sorghum, or cotton. The Soil Conservation Service's soil survey provides the estimated yields for each soil type. Soil types with similar yields are grouped together to form dry cropland sub-classes. The typical yields for the most common soils types are assigned an index of 100. All other yield estimates are indexed to these yields. The 100-index yields are wheat, 15 bushels per acre; grain sorghum, 15 hundredweight per acre; and cotton,

200 pounds per acre. See Appendix E, Figure 9 for the dry cropland sub-classes.

Most dry cropland leases in Ferguson County are share leases. In the typical wheat lease, the landowner receives one-third of gross income and shares in one-third of the fertilizer, harvest, and haul costs. In a typical grain sorghum lease, the landowner receives one-third of gross income and shares one-third of the fertilizer, insecticide, harvest and haul expenses. In a cotton lease, the landowner shares in one-quarter of the gross income and pays one-quarter of the fertilizer, herbicide, and gin, bag, and tie costs. In all leases, the landowner is responsible for the property taxes.

Since Ferguson County farmers typically participate in the federal government's deficiency payment program, we include this income to calculate net to land. We consult the local Agricultural Stabilization and Conservation Service (ASCS) office, which administers the government programs, for the data necessary to include this income in the calculation of net to land.

To participate in a deficiency payment program in 1985, a farmer could plant only 72.5 percent of his enrolled wheat acres, 90 percent of his grain sorghum acres, and 70 percent of his cotton acres. The payments received from the government for wheat are \$1.08 per bushel; grain sorghum, \$.79 per hundredweight; and cotton, \$.237 per pound. For the deficiency payment program, the government estimated a yield per acre of 15 bushels of wheat, 13 hundred weight of grain sorghum, 185 pounds of cotton lint, and .1354 tons of cottonseed. Farmers are allowed to plant set-aside land and graze it during the five principal growing months designated by the State ASCS committee.

After consulting with the ASCS office, we determine that the majority of set-aside land in the wheat program is planted in wheat and grazed during the allowed five-month period. These figures represent an additional income that will be included in the calculation of net to land.

The calculation of net to land for dry cropland in Ferguson County required that share lease budgets for each of the three principal crops be developed for each of five years.

See Appendix E, Figures 10 to 13, for the 1985 share lease budget for each crop. In 1985, land planted in wheat generated income from (1) the harvested wheat, (2) the grazing of that land, (3) government payments, and (4) grazing of set-aside land planted in wheat. Because only 72.5 percent of the enrolled wheat acres are planted for harvest, a downward adjustment of 72.5 percent is made to the estimated income from harvested wheat, grazing on harvested acres, and government payments. The same adjustment is made to the corresponding expenses. Because 27.5 percent of the enrolled acres are set aside, but are still planted and grazed, we must add an adjustment of 27.5 percent to the estimated income from grazing and expenses on the set-aside land.

We also adjusted the share lease budgets for grain sorghum and cotton by the respective percentage of planted acres, 90 percent (grain sorghum) and 70 percent (cotton).

To develop a final 1985 net to land for dry cropland, we weighted each crop's net to land by its crop-mix percentage. Crop-mix is the percentage that each individual crop makes up of the total planted acres. The 1985 crop mix calculation of net to land is shown below:

Crop	Planted Acres	Crop Mix		Net to Land		Contribution
Wheat	78,800	.43	x	\$15.91	=	\$ 6.84
Grain Sorghum	59,700	.32	x	5.73	=	1.83
Cotton	<u>45,800</u>	<u>.25</u>	x	17.94	=	<u>4.49</u>
	184,300	1.00				\$ 13.16

The 1985 Net to Land, along with the net to land values for the years 1981-84 were averaged to determine the final net to land value:

1981	—	16.01	
1982	—	18.76	
1983	—	20.85	
1984	—	11.53	
1985	—	<u>13.16</u>	
		80.31	+ 5 = \$16.06 net to land

The calculated net to land of \$16.06 is our base net to land. To develop the schedule of agricultural values, we adjust the base net to land by the sub-class index, then divide the adjusted net to land by the capitalization rate. Appendix E, Figure 14 shows the calculations.

Irrigated Cropland

There are only 4,958 acres of irrigated cropland within Ferguson CAD. All of this acreage is located in the southwest corner of the county. This area of irrigated land, consisting of approximately 16,000 total acres, extends into the counties to the west and south. All of the irrigated land in Ferguson County is farmed by the landowner, except 480 acres. This land is cash leased for \$40 per acre. In the neighboring counties, both cash and share leases are used. Only a small number of share leases were available. Variations within the leases made it difficult to determine a typical share lease for any crop. Therefore, cash lease information provides the most reliable indication for calculating net to land.

The cash leases collected in adjoining counties show lease rates similar to the one in Ferguson County. In Deere County, three leases indicate rates of \$40 acre, \$45 acre and \$50 acre. In Case County, two leases have rates of \$35 acre and \$45 acre.

The irrigated cropland class is divided into three sub-classes in the same way the dry cropland class was divided into sub-classes. See Appendix E, Figure 15 for the irrigated cropland sub-classes.

Using the method illustrated in the native pasture section, we analyze the leases to determine a net to land for each sub-class. See Appendix E, Figure 16 for the analysis of irrigated cropland.

Our analysis of the cash leases shows that the schedule of \$52 acre for IC1, \$40 acre for IC2, and \$32 acre for IC3 is fairly accurate. The only costs attributed to the landowner under these leases are the property taxes and the depreciation on the water wells. The estimated property tax is \$3.30 for IC1, \$2.50 for IC2, and \$2.20 for IC3. The depreciation on the wells is \$5.00 per year. Assuming 1985 net to land equalled the average of the five base years, the irrigated cropland schedule would be the following:

Lease Rate		Well Depreciation		Taxes		Net-to-Land		Cap Rate		Ag Use Value
IC1 \$52.00	-	\$5.00	-	\$3.30	=	\$43.70	+	.1325	=	\$330.00
IC2 \$40.00	-	\$5.00	-	\$2.50	=	\$32.50	+	.1325	=	\$245.00
IC3 \$32.00	-	\$5.00	-	\$2.20	=	\$24.80	+	.1325	=	\$187.00

Appraisal of Individual Property

Mr. John Ford's farm and ranch is fairly typical of Ferguson County. Mr. Ford's place is located approximately 6.4 miles southeast of the city of Massie in the J. White survey. Mr. Ford owns 780 acres, of which 429 acres are native pasture, 51 acres are improved pasture, and 300 acres are dry cropland. Each of these classes of land is classified according to the classification schedules. The following charts show the acreage breakdown within each class.

Native Pasture		Improved Pasture		Dry Cropland	
Sub-Class	Acres	Sub-Class	Acres	Sub-Class	Acres
NP1	0	IP1	51	DC1	90
NP2	135	-	0	DC2	175
NP3	158	-	0	DC3	35
NP4	103	-	0	DC4	0
NP5	33	-	0	DC5	0
NP6	0	-	0	-	0

We appraised Mr. Ford's property by simply multiplying the acreage with each sub-class by the corresponding agricultural value.

Land Class	Acreage		Ag Value per acre		Ag Value
NP2	135	x	55.00	=	\$7,425
NP3	158	x	48.00	=	7,584
NP4	103	x	40.00	=	4,120
NP5	33	x	34.00	=	1,122
IP1	51	x	81.00	=	4,131
DC1	90	x	164.00	=	14,760
DC2	175	x	145.00	=	25,375
DC3	35	x	121.00	=	4,235

The appraised agricultural value of Mr. Ford's property is \$68,752.

Appendix E

FIGURES

Figure 1
Cash Lease Example

Year	Grazing Lease Rates	Hunting Lease Rates	yields	Typical Rate	-	Typical Owner Expenses	=	Typical Net-to-Land
1980	\$ 5.00 4.75 4.50 4.25	\$ 3.00 3.00 3.00 2.75	yields	\$ 7.50	-	{ .50 fence .47 taxes }	=	\$ 6.53
1981	5.00 4.75 4.75 4.50	3.00 3.00 3.25 2.50	yields	7.75	-	{ .50 fence .48 taxes }	=	\$ 6.77
1982	5.00 4.75 4.75 4.50	3.00 3.00 3.25 2.50	yields	7.75	-	{ .50 fence .48 taxes }	=	\$ 6.77
1983	5.00 5.00 4.75 5.00	3.25 3.50 3.25 3.00	yields	8.25	-	{ .50 fence .52 taxes }	=	\$ 7.23
1984	5.00 4.75 4.75 4.50	3.00 3.50 3.50 3.50	yields	8.25	-	{ .50 fence .52 taxes }	=	\$ 7.23

Figure 2
5-Year Average
Net to Land Values

Land Use Category: Native Pasture

Net Income 1977	Net Income 1978	Net Income 1979	Net Income 1980	Net Income 1981	5-year Avg. Net Income
\$2.60	\$2.85	\$3.05	\$3.30	\$3.50	\$3.06

Figure 3

Share Lease Information Questionnaire

(to be completed by property owner)

INSTRUCTIONS. Appraisal records indicate that you own agricultural land leased on a share basis. On the chart below, please indicate the share payment that you receive and the expenses you pay on each crop. Please specify any crops you receive income from that are not listed on the form.

If you own agricultural land of a type for which you have not received a form (e.g. irrigated cropland, native pasture, timber), please contact the appraisal district immediately.

Your prompt attention to this request will enable the district to appraise agricultural property more accurately and equitably.

Land Class Dry Crop

Crop	G. Sorghum	Wheat	Cotton	(Other)	(Other)
Fill in your share of INCOME from each crop (use fractions)					
1) Grain/Lint					
2) Deficiency Payment					
3) Grazing					
4) Cotton Seed					
5) Other					
Fill in your share of VARIABLE EXPENSES from each crop (use fractions)					
Seed					
Fertilizer					
Insecticide					
Herbicide					
Fungicide					
Hail Insurance					
Irrigation Water					
Harvest					
1) Haul					
2) Gin, bag, tie					
Other					
1)					
2)					
3)					
Fill in your share of FIXED EXPENSES from each crop (use fractions)					
Real Estate Tax					
Wells					
Other					
1)					
2)					
3)					
4)					

Figure 4
Share Lease Agreement

	Percent Planted		Owner's Share		Price per Unit		Quantity		Owner's Share
Income									
Grain Sorghum	.90	x	.333	x	4.35cwt.	x	21.65	=	\$ 28.22
Deficiency Payments	.90		.333		.79cwt.		24.20		<u>5.73</u>
Total Income									\$ 33.95
Expenses									
Variable									
Fertilizer	.90	x	.333	x	15.00 acre	x	1	=	\$ 4.50
Harvest	.90		.333		10.00 acre		1		3.00
Haul	.90		.333		.25cwt.		21.65		<u>1.62</u>
									9.12
Fixed									
Property taxes			1.0		1.75acre		1		1.75
Total Expenses =									\$ 10.87
Net-to-Land =									\$ 23.08 per acre

Figure 5
Classification of Native Pasture

Soil Type	Range Site	Acres	Percent	Avg. Herb Yield	Yield Index	Ag Use Class	Productivity Index
Frio Clay Loam	Bottomland	3,403	1.3	4,600	153	I	150
Ligon Clay Loam	Bottomland	2,784	1.1	4,600	153		
Denton Silty Clay 0-1	Deep Upland	3,867	1.5	4,400	147		
Denton Silty Clay 1-3	Deep Upland	4,290	1.7	4,400	147		
Spur Soils	Deep Upland	1,125	.4	4,400	147		
Tobaso Clay 0-1	Redland	1,870	.7	3,700	123	II	120
Tobaso Clay 1-3	Redland	17,906	6.9	3,700	123		
Olton Clay Loam	Clay Loam	2,100	.8	3,600	120		
Angelo Clay Loam 0-1	Clay Loam	8,824	3.4	3,600	120		
Angelo Clay Loam 1-3	Clay Loam	12,117	4.7	3,600	120		
Yohola Clay	Shallow	9,059	3.6	3,500	117		
Kavitt Clay 0-1	Shallow	1,579	.6	3,500	117		
Kavitt Clay 1-2	Shallow	921	.4	3,500	117		
Pedernales Loam	Shallow	5,000	1.9	3,500	117		
Pedernales Sandy Loam	Sandy Loam	2,500	1.0	3,400	113		
Paducah Loam	Mixed Land	3,126	1.2	3,100	103	III	100
Randall Clay	Mixed Land	7,592	2.9	3,100	103		
Obaro Loam	Mixed Land	22,408	8.7	3,100	103		
Estacodo Loam	Hardland	6,222	2.4	3,000	100		
Zapata Loam	Hardland	3,778	1.5	3,000	100		
Travis Sandy Loam	Sandy	20,445	7.9	3,000	100		
Heatly	Sandy	9,528	3.7	3,000	100		
Tivoli	Sandy	10,027	3.9	3,000	100		
Doss Sandy Loam	Tight Sandy	12,328	4.8	2,800	93		
Merata Sandy Loam	Tight Sandy	7,672	3.0	2,800	93		
Brackett	Adobe	985	.4	2,500	83	IV	80
Kimbrough	Stoney	3,214	1.2	2,400	80		
Talpa	Stoney	1,786	.7	2,400	80		
Ozona Assoc.	Shallow Hills	3,000	1.2	2,400	80		
Doss Loam Assoc.	Shallow Hills	13,698	5.3	2,400	80		
Cosh-Latom	Shallow Hills	16,302	6.3	2,250	75		
Bandera Clay	Shallow Hills	10,000	3.9	2,250	75		
Brackett-Tanant	Steep Adobe	6,625	2.5	2,000	67		
Tulia Clay	Hardland	9,444	3.7	1,900	63	V	65
Brooks Clay	Hardland	4,556	1.8	1,900	63		
Segovia Gravelly Loam	Steep Rocky	2,321	.9	1,300	43	VI	40
Leakey Gravelly Clay	Steep Rocky	4,641	1.8	1,300	43		
Eckert Stony Soils	Stoney Loam	773	.3	900	30		

Figure 6
Estimated Price per Acre
Native Pasture

Lease	Lease Amount	Total Acreage	Acreage Per Class						Lease Price per Acre	Estimated Price per Acre
			1	2	3	4	5	6		
1	\$ 605	110	5	0	105	0	0	0	\$ 5.50	\$ 5.63
2	1,166	212	0	0	198	14	0	0	5.50	5.43
3	736	92	75	17	0	0	0	0	8.00	7.94
4	2,240	320	80	201	0	39	0	0	7.00	6.75
5	3,000	640	0	0	286	275	79	0	4.69	4.79
6	2,000	350	0	138	212	0	0	0	5.71	5.93
7	8,200	1,640	0	270	504	325	491	50	5.00	4.79
8	4,750	1,057	0	0	198	623	215	21	4.50	4.40
9	640	160	0	123	37	0	0	0	4.00	6.34
10	1,800	300	0	25	35	240	0	0	6.00	4.71

To calculate the estimated price per acre, multiply the acreage per class times the lease rate below, total the results, and divide by total acreage.

Land Class	Base Rate		Index		
1	\$ 5.50	x	1.50	=	\$8.25 per acre
2	5.50	x	1.20	=	6.60 per acre
3	5.50	x	1.00	=	5.50 per acre
4	5.50	x	.80	=	4.40 per acre
5	5.50	x	.65	=	3.58 per acre
6	5.50	x	.40	=	2.20 per acre

Figure 7
Calculation of Productivity Values

INCOME				EXPENSES				CAPITALIZATION	
Grazing		Hunting		Fence		Taxes		NTL	÷ Cap = Ag Value
NP1	\$ 8.25	+	\$ 2.00	-	\$.75	-	\$.65	=	\$ 8.85 ÷ .1325 = \$67.00
NP2	6.60	+	2.00	-	.75	-	.53	=	7.32 ÷ .1325 = 55.00
NP3	5.50	+	2.00	-	.75	-	.45	=	6.30 ÷ .1325 = 48.00
NP4	4.40	+	2.00	-	.75	-	.38	=	5.27 ÷ .1325 = 40.00
NP5	3.58	+	2.00	-	.75	-	.32	=	4.51 ÷ .1325 = 34.00
NP6	2.20	+	2.00	-	.75	-	.22	=	3.23 ÷ .1325 = 24.00

Figure 8
Net to Land for Improved Pastures

Lease Number	Lease Amount	Total Acreage	NP1	Acreage per class				IP	NP Lease Amount	IP Lease Amount	IP per Acre
				NP2	NP3	NP4					
1	\$1,880	280	15	102	0	98	65		\$ 1,228	\$ 652	\$ 10.03
2	2,600	320	40	111	79	0	90		1,497	1,103	12.26
3	7,105	980	70	259	412	39	200		4,725	2,380	11.90

To estimate the lease amount per acre for improved pasture in a mixed lease, use the native pasture lease rates (Figure 6) to estimate the amount attributable to native pasture. Subtracting this amount from the gross lease leaves the improved pasture lease amount. Dividing that amount by the acres of improved pasture gives the rate per acre.

Worksheet, Irrigated Pasture Lease 1

Class	Acreage		Lease		Subtotal
NP1	15	x	\$8.25	=	\$ 124.00
NP2	102	x	6.60	=	673.00
NP3	0	x	5.50	=	0
NP4	98	x	4.40	=	<u>431.00</u>
Native Pasture lease				=	\$1,228.00
					0

Gross lease	=	\$ 1,880.00	
NP Lease	=	<u>- 1,228.00</u>	
IP Lease	=	\$ 652.00	
IP lease per acre	=	\$ 652.00	+ 65 = \$10.03

Figure 9
Classification of Dry Cropland

Soil Type	Acres	% of Total	Wheat Yield	Wheat Index	Grain Sorghum	Grain Index	Cotton Yield	Cotton Index	Composite Index	Ag Use Class	Prod. Index
Spur Soils	6,550	3.3	20	133	2000	133	275	138	135	I	135
Frio Clay Loam	1,338	.7	20	133	2000	133	275	138	135		
Angelo Clay Loam 1-3	9,326	4.7	20	133	1750	117	250	125	125	II	120
Denton Silty Clay 0-1	20,035	10.1	20	133	1750	117	250	125	125		
Ligon Clay Loam	4,368	2.2	20	133	1250	83	250	125	114		
Yohola Clay	912	.5	15	100	2000	133	250	125	120		
Tobasa Clay 0-1	11,899	6.0	20	133	1750	117	225	113	121		
Pedernales	12,899	6.5	15	100	1250	83	200	100	95	III	100
Olton Clay Loam	17,849	9.0	15	100	1500	100	200	100	100		
Tobasa Clay 1-3	6,148	3.1	15	100	1750	117	200	100	106		
Obero Loam	1,597	.8	12	80	1500	100	175	88	90		
Angelo Clay Loam 3-5	9,128	4.6	15	100	1500	100	200	100	100		
Denton Silty Clay 1-3	16,064	8.1	15	100	1500	100	200	100	100		
Paducah Loam	10,114	5.1	15	100	1500	100	200	100	100		
Kavitt Clay 0-1	1,196	.6	15	100	1250	83	200	100	95		
Denton Silty Clay 3-5	1,785	.9	12	80	1250	83	150	75	80	IV	80
Estacado Loam	24,598	12.4	12	80	1250	83	175	88	84		
Kavitt Clay 1-3	13,684	6.9	15	100	1000	67	150	75	80		
Pedernales Sandy	5,955	3.0	15	100	1250	83	150	76	85		
Travis Sandy Loam	4,567	2.3	15	100	1000	67	150	75	80		
Zapata Loam	3,966	2.0	12	80	1000	67	150	75	74		
Abilene Sandy Loam	9,718	4.9	10	67	750	50	150	75	64	V	64
Demonia Fine Sand	4,569	2.3	10	67	750	50	125	63	60		

Figure 10
County Dry Cropland Statistics (1985)
Ferguson County

Crop	Acres Planted	Acres Harvested	1985 Yield	Price
Wheat	78,800	72,000	17.5000	\$ 3.03 bushel
Grain Sorghum	59,700	57,500	1,300.0000	\$ 3.93 cwt.
Cotton (lint)	45,800	44,500	175.0000	\$ 0.508 lb.
Cotton (seed)	45,800	44,500	0.1354	\$ 55.00 ton

ADJUSTED YIELD PER ACRE*

Crop	Harvested Acres	Planted Acres	Percent Harvested	Yield per Harvested Acre	Yield per Planted Acre
Wheat	72,000	+ 78,800	= .91	x 17.5 bu	= 15.9 bu.per acre
Grain Sorghum	57,500	59,700	.96	13.0 cwt.	12.48 cwt. per acre
Cotton lint	44,500	45,800	.97	175.0 lb.	169.75 per acre
Cotton seed	44,500	45,800	.97	.1354 tons	.1313 per acre

*See page 28 for an explanation of adjusted yields.

Figure 11
Share Lease: Ferguson County
Dry Cropland Wheat (1985)

	Percent Harvested*		Share		Units		Price per Unit	=	Total
INCOME									
1) Wheat	.725	x	.333	x	15.9	x	\$ 3.03	=	\$11.63
2) Grazing	.725	x	.333	x	1.0	x	24.00	=	5.79
3) Deficiency Payment	.725	x	.333	x	15.0	x	1.08	=	3.91
4) Grazing Set Aside	.275	x	.333	x	1.0	x	24.00	=	<u>2.20</u>
Total Income								=	\$ 23.53
VARIABLE EXPENSES									
Fertilizer	.725	x	.333	x	1.0	x	\$ 9.24	=	\$ 2.23
Harvest	.725	x	.333	x	1.0	x	12.00	=	2.90
Haul	.725	x	.333	x	15.9	x	.15	=	.57
Fertilizer Set Aside	.275	x	.333	x	1.0	x	9.24	=	<u>.85</u>
Total Variable Expenses								=	\$ 6.55
FIXED EXPENSES									
Taxes			1.000						<u>\$ 1.07</u>
Total Cost								=	\$ 7.62
Net to Land								=	\$ 15.91

* Percentage of acreage the farmer can harvest if participating in the deficiency payment program.

Figure 12
Share Lease: Ferguson County
Dry Cropland Grain Sorghum (1985)

	Percent Harvested*		Share		Units		Price per Unit	Total
INCOME								
1) Grain Sorghum	.90	x	.333	x	12.48	x	\$3.93	= \$ 14.70
2) Deficiency Payment	.90	x	.333	x	13.00	x	.79	= <u>3.08</u>
Total Income								= \$ 17.78
VARIABLE EXPENSES								
Fertilizer	.90	x	.333	x	1.0	x	\$18.48	= \$5.54
Insecticide	.90	x	.333	x	1.0	x	3.00	= .90
Harvest	.90	x	.333	x	1.0	x	12.00	= 3.60
Haul	.90	x	.333	x	12.48	x	.25	= <u>.94</u>
Total Variable Expenses								= \$ 10.98
FIXED EXPENSES								
Taxes			1.000					<u>1.07</u>
Total Cost								= \$ 12.05
Net to Land								= \$ 5.73

* Percentage of acreage the farmer can harvest if participating in the deficiency payment program.

Figure 13
Share Lease: Ferguson County
Dry Cropland Cotton (1985)

	Percent Harvested*		Share		Units		Price per Unit		Total
INCOME									
1) Cotton Lint	.70	x	.25	x	169.75	x	\$.508	=	\$ 15.09
2) Cotton Seed	.70	x	.25	x	.1313	x	\$ 55.00	=	1.26
3) Deficiency Payment	.70	x	.25	x	185.0	x	**\$.2370	=	<u>7.67</u>
Total Income								=	\$ 24.02
VARIABLE EXPENSES									
Fertilizer	.70	x	.25	x	1.0	x	\$9.00	=	\$ 1.58
Herbicide	.70	x	.25	x	1.0	x	6.00	=	1.05
Gin, bag, tie	.70	x	.25	x	169.75	x	.08	=	<u>2.38</u>
Total Variable Expenses								=	\$ 5.01
FIXED EXPENSES									
Taxes			1.000						<u>1.07</u>
Total Cost								=	\$ 6.08
Net to Land								=	\$ 17.94

* Percentage of acreage the farmer can harvest if participating in the deficiency payment program.

** Deficiency payments for cotton are calculated to include both lint and seed.

Figure 14
Agricultural Use Values Per Dry Crop Sub-Class

Sub-Class	Base Net to Land		Productivity Index		Sub-Class Net to Land		Cap Rate		Ag Use Value
DC1	\$ 16.06	x	1.35	=	\$ 21.68	+	.1325	=	\$ 164.00
DC2	16.06	x	1.20	=	19.27	+	.1325	=	145.00
DC3	16.06	x	1.00	=	16.06	+	.1325	=	121.00
DC4	16.06	x	.80	=	12.85	+	.1325	=	97.00
DC5	16.06	x	.64	=	10.28	+	.1325	=	78.00

Figure 15
Classification of Irrigated Cropland

Soil Types	% of Acres	Wheat Total	Wheat Yield	Index	Grain Sorghum	Grain Index	Cotton Yield	Cotton Index	Composite Index	Ag Use Class	Productivity Index
Spur Soils	273	5.5	30	133	3000	120	450	138	130	I	130
Frio Loam	798	16.1	30	133	3250	130	450	138	133		
Tobasa Clay 0-1	154	3.1	30	133	3000	120	425	131	128		
Angelo Clay Loam 1-3	897	18.1	22.5	100	2500	100	325	100	100	II	100
Yohola Clay	764	15.4	25	111	2300	92	325	100	100		
Olton Clay Loam	650	13.1	22.5	100	2300	92	325	100	100		
Tobasa Clay 1-3	203	4.1	22.5	100	2300	100	350	108	100		
Denton Silty Clay 1-3	451	9.1	18	80	2000	80	250	77	80	III	80
Paducah Loam	625	12.6	18	80	2000	80	250	77	80		
Kavitt Clay	143	2.9	18	80	2000	80	275	85	85		

Figure 16
Net-to-Land for Irrigated Cropland

County	Lease No.	Lease Amount	Acreage	Acres per class			Lease Price per Acre	Estimated Price per Acre *
				1	2	3		
Ferguson	1	\$19,200	480	45	375	60	\$ 40	\$ 40.13
Deere	2	6,400	160	0	160	0	40	40.00
Deere	3	3,600	80	25	35	20	45	41.75
Deere	4	6,000	120	105	15	0	50	50.50
Case	5	3,500	100	0	10	90	35	32.80
Case	6	3,600	80	55	10	15	45	46.75

To calculate the estimated price per acre, multiply the acreage per class times the lease rate below, total the results, and divide by total acreage.

	Base Rate		Index		
Land Class 1	40	x	1.30	=	\$52.00 per acre
Land Class 2	40	x	1.00	=	\$40.00 per acre
Land Class 3	40	x	.80	=	\$32.00 per acre

Appendix F

Forms

1. Application for 1-d Agricultural Appraisal for 19__ (1-d Agricultural Land)
(See Comptroller [Form 50-165](#))
2. Application for 1-d-1 (Open-Space) Agricultural Appraisal for 19__ (1-d-1 Agricultural Land)
(See Comptroller [Form 50-129](#))
3. Application for 1-d-1 (Open-Space) Agricultural Appraisal for Ecological Laboratory for 19__ (1-d-1 Ecological Laboratory Land)
(See Comptroller [Form 50-166](#))
4. 1-d Notice of Change of Use Determination
(See Comptroller [Form 50-789](#))
5. 1-d-1 Notice of Change of Use Determination
(See Comptroller [Form 50-789](#))
6. Notice of Penalty
7. Request for Additional Information
8. Agricultural Foreign Investment Disclosure Act Report

Comptroller forms listed above can be found on the Comptroller's property tax forms Web page at www.window.state.tx.us/taxinfo/taxforms/02-forms.html.

_____ County Appraisal District
_____ County Appraisal Number

NOTICE OF PENALTY

PROPERTY OWNER'S NAME AND ADDRESS:	PROPERTY SUBJECT TO PENALTY:
<p>REASON FOR ASSESSING PENALTY: Property owner's failure to notify _____ County Appraisal District before May 1, 19 __, of the following change in the status of the property described above:</p> <p>_____ Change in ownership of the property</p> <p>_____ Change in category of agricultural use</p> <p>_____ Change in eligibility of land for agricultural appraisal</p> <p>_____ Late application</p>	
<p>PENALTY ASSESSED: 10% of the difference between the taxes that would have been due had the property described above been taxed at its market value of \$ _____, and the taxes assessed on the productivity value of the property, \$ _____.</p> <p>Tax on market value: _____</p> <p>Tax on productivity value: _____</p> <p>Difference between market value taxes and productivity value taxes: _____</p> <p>10% of the difference = _____</p> <p>Penalty assessed = _____</p>	
<p>The penalty assessed above is due on or before February 1, 19 __.</p>	
<p>You may protest the assessment of this penalty to the Appraisal Review Board (ARB) by filing a written notice of protest with the ARB for the appraisal district which has assessed the penalty. In most cases, notice must be filed not later than 30 days after delivery of this notice of penalty. Forms for giving notice of protest may be obtained from the appraisal district in your area.</p>	

Form _____

To:

Property Description:

Date: _____

Account Number: _____

Request for Additional Information

You recently filed an application for open-space designation on the property described above. In reviewing the application, the appraisal office has found that it needs the following additional information in order to decide whether the land is qualified.

You must provide the additional information within 30 days of the date of this request. Please deliver the information in person or send it to:

(Name, address, and telephone for contact person)

If you don't deliver the information before the 30-day deadline, your application will be automatically denied. If you do deliver the information, you will be notified of the decision on your application. If you have any problems in providing the information or you don't understand this notice, please contact the person named above.

FSA-153**U.S. DEPARTMENT OF AGRICULTURE**

(05-24-01)

Farm Service Agency

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT REPORT

1. TYPE ACTIVITY (See Page 2) (Check one)

- A. Land Holding ☐ B. Land Acquisition ☐ C. Land Disposition ☐
D. Land Use Change To Agriculture ☐ E. Land Use Change To Non-Agriculture ☐

NOTE: Read Instructions on Page 2 Before Filing in Any Data Below. If Additional Space is Needed, Use Page 2

ITEM		OFFICE USE ONLY	ITEM		CHECK
2. Tract Location and Description			5. Type of Interest Held in the Agricultural Land (Check One)		
A. LEGAL DESCRIPTION OR FSA TRACT NUMBER			A. Fee Interest (ownership) Whole		
B. COUNTY OR PARISH			B. Fee Interest (ownership) Partial WHAT PERCENT %		
C. NO. OF ACRES			C. Life Estate		
D. STATE			D. Trust Beneficiary		
3. Owner of Tract (in Item 2A) (See Page 2)			E. Purchase Contract		
A. NAME			F. Other (explain)		
B. TAX ID NO. (Nine digits)			6. How was this Tract Acquired or Transferred?		CHECK
C. LEGAL ADDRESS (Street, City, State/Province, Country)			A. Cash Transaction		
			B. Credit or Installment Transaction		
			C. Trade		
			D. Gift or Inheritance		
			E. Foreclosure		
			F. Other (explain)		
D. Type of Owner (if checked, skip Items D2 and D3)		CHECK	7. Value of Agricultural Land:		
1. Individual (including husband/wife). Indicate citizenship of husband and wife, if applicable.			A. Purchase Price of Land or if a land disposition, the original price paid by seller.		\$
a. Citizenship of Individual			B. Non-Purchase, Estimated Value at the Time of Acquisition		\$
2. Government (name of country)			C. What is the estimated current value or if a land disposition, the selling price of the tract of land?		\$
3. Organization		CHECK	D. How much of purchase price in Item 7A remains to be paid?		\$
a. Type			8. Date of Acquisition or Transfer (See Page 2)		MONTH DAY YEAR
1) Corporation			9. Current Land Use (Usual use of land. For idle land, report as Other Agriculture.) Report in Whole Numbers		ACRES
2) Partnership			A. Crop		
3) Estate			B. Pasture		
4) Trust			C. Forest or Timber		
5) Institution			D. Other Agriculture		
6) Association			E. Non-Agriculture		
7) Other			F. Total (Should equal Item 2C)		
b. Gov't. or country under whose law the organization is created			10. Intended Use as of This Date (Check One or More or type "N/A" if Item 1C above is marked)		CHECK
c. Principal place of business (for organizations only)			A. No Change		
d. List on separate sheet, the Name, Address and Country of all foreign persons who individually or in the aggregate hold significant interest or substantial control 1/ in the person owning the land.			B. Other Agriculture		
E. Complete only if Item 1C, Land Disposition, is checked			C. Non-Agriculture		
1. NAME OF PERSON RECEIVING TRACT			11. Relationship of Owner to Producer (If not applicable, for Items 11A through 11B, type "N/A") Check one or more or type "N/A" if Item 1C above is marked.		
2. ADDRESS (Street, City, State/Province, Country)			A. Producer is:		
3. CITIZENSHIP USA <input type="checkbox"/> FOREIGN <input type="checkbox"/> UNKNOWN <input type="checkbox"/>			1. Owner		
4. Representative of Foreign Person (completing form, if applicable)			2. Manager		
A. NAME			3. Tenant or sharecropper (Item 11B must be completed)		
B. ADDRESS (Street, State, Country)			B. Rental agreement is: (Not applicable if Item 1C above is marked)		
C. TELEPHONE NO. (Area Code)			1. A crop share		
D. Relationship of Representative to Foreign Person:		CHECK	2. Cash or fixed rent		
1. Attorney			12. The Producer on This Tract is: Check one or more. If not applicable, for Items 11A through 11B, type "N/A" (Not applicable if Item 1C above is marked)		
2. Manager			A. The same person as when the tract was acquired		
3. Agent			B. A new person		
4. Other (Explain on Page 2)			13. CERTIFICATION -I certify that the information entered in this report is complete and correct. I understand that falsification of reporting is subject to a civil penalty not to exceed 25% of the fair market value of the interest held in the tract of land.		
14. SIGNATURE (Owner or legally authorized representative)		TITLE	DATE (MM-DD-YYYY)		

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is Pub. L. 95-460. The information will be used to determine the effects of foreign persons acquiring, transferring and holding agricultural land and the effects of such activity on family farms and rural communities. Furnishing the requested information is mandatory. Failure to comply or falsification of reporting is subject to civil penalty, not to exceed 25 percent of the fair market value of the interest held in the tract on the date of the assessment of such penalty.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0097. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. **RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

DETERMINATION OF "FOREIGN PERSON" STATUS

DEFINITION: "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity.

You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is **"NO"** to all the statements in Items 1, 2, and 3 below:

1. I AM a citizen of the United States.

2. I AM a citizen of the Northern Mariana Islands or the Trust Territories of the Pacific Islands.

3. I AM lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act.

You are a "foreign person" under the provisions of Pub. L. 95-460 and must complete the front side of this form (FSA-153) if your answer is **"YES"** to any of the statements in Items 4a, 4b, and 5 below:

4. I AM a "person" other than an individual or government, which is created or organized under the laws of:

a. A foreign government of which has its principal place of business located outside the United States.

b. Any State of the United States, and in which significant interest or substantial control ^{1/} is held directly or indirectly by any foreign individual, government, or person.

5. I AM a foreign government.

GENERAL INSTRUCTIONS

Complete this form for each tract of land. Report as a tract all acreages under the same ownership in each county or parish acquired or transferred on the same date. Land in different counties or parishes and land acquired or transferred on different dates must be reported as separate tracts.

Return the original to the County Farm Service Agency (FSA) Office where the tract of land is located. Retain a copy for your records. **DO NOT SEND THIS FORM DIRECTLY TO WASHINGTON, D.C. UNLESS GRANTED PERMISSION BY THE FSA IN WASHINGTON, D.C.**

After the original disclosure on FSA-153 on the tract(s) of land owned by the same person within a county or parish, each subsequent change of ownership or use must be reported by filing another FSA-153.

ITEM INSTRUCTIONS AND REPORTING DATES

ITEM 1. ONLY ONE BOX MAY BE CHECKED

If the tract of land to be listed under Item 2 on the front side of this document was:

- Owned on February 1, 1979, check **A. Land Holding** ☒) Reporting Date: This document is required to be completed and returned by August 1, 1979.

If the tract of land to be listed under Item 2 on the front side of this document was, on or after February 2, 1979:

- Acquired, check **B. Land Acquisition** ☒

- Disposed of, check **C. Land Disposition** ☒

- Changed from non-agricultural to agricultural use, check

D. Land Use Change to Agriculture ☒

- Changed from agricultural to non-agricultural, use check

E. Land Use Change to Non-Agriculture ☒

REPORTING DATE:

If any of these activities are checked in Item 1, return the completed FSA-153 within ninety (90) days from the date of the transaction.

ITEM 8. The date entered would be as follows for the activity checked in Item 1:

Box A or B - Date acquired.

Box C - Date disposed of.

Box D or E - Date land use changed.

ADDITIONAL INFORMATION (Use additional sheets if more space is needed)

^{1/} Significant interest or substantial control as defined in 7 CFR Part 781.2 (k).

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

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